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THE TRUTH ABOUT

BY VIRGINIA I. POSTREL AND LYNN SCARLETT

LOREN E. LOMASKY ON ILLIBERAL EDUCATION

CRAIG M. COLLINS ON THE LITIGATION EXPLOSION

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Austrian Economics

Center for the Study of Market Processes

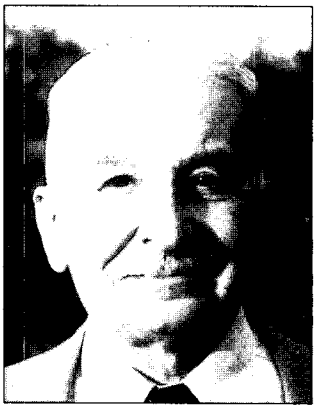
George Mason University

Friedrich Hayek

The University. Located in Fairfax, Virginia, just 15 miles from Washington, D.C., George Mason University is well positioned to influence political, cultural, and academic affairs. The university's rapid growth and influence led *Time* magazine (April 28, 1986) to include George Mason as one of nine "fast-rising and ambitious institutions that are now challenging the nation's elite schools." The university attracts a variety of well-known visiting economists, including Kenneth Boulding and James C. Miller III.

The Economics Department. With such renowned economists as Nobel Laureate James Buchanan, Robert Tollison, Richard Wagner, and Walter Williams, the economics department is among the best known and most highly rated in the world. Combining rigorous training in neoclassical economics with innovative ideas in theory and policy, the department trains economists for positions in academia, government, and business. As a measure of the department's successes, the spring 1989 *Journal of Economic Education* ranked the George Mason economics department eighth nationally in articles published per faculty member.

Center for the Study of Market Processes. Besides its students, the Center consists of faculty members Tyler Cowen, Jerome Ellig, Jack High, Don Lavoie, and Karen Vaughn. The Center emphasizes economics as a humane discipline with strong links to philosophy, history, political science, and law. Center faculty work on a variety of different topics, including the problem of rational economic calculation under socialism, the history of regulation, the evolution of financial institutions, the economics of antitrust, and the theory of economic policy. Special attention is given to the Austrian school of economics; the department offers a one year graduate course and a specialized field of study in Austrian economics.



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Ludwig Von Mises

Center students. The graduate students at George Mason are among the best and brightest in the country. More importantly, they are dedicated to scholarship, hard work, and helping each other. The result is an intellectual excitement among students that is often lacking in graduate education.

Various courses are offered by Center faculty, including micro- and macroeconomics, industrial organization, comparative economic systems, monetary theory, public finance, and the most extensive graduate and undergraduate offerings in Austrian economics found anywhere. In addition to classroom instruction, special seminars offer training in research, writing, and publishing skills. As a result, Center students have published in the *American Economic Review*, *Journal of Political Economy*, *History of Political Economy*, *Wall Street Journal*, *Washington Post* and *Reason* magazine during their tenure at George Mason. Center students also write for influential policy organizations in Washington, D.C., and present research results at professional meetings.

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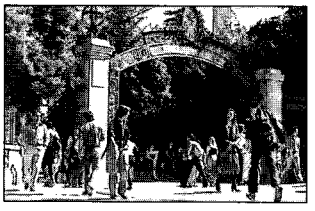

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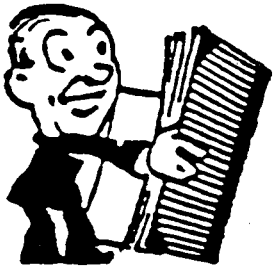

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Cover photograph by Ron Derhacopian

REASON (ISSN 0048-6906) is published monthly except combined August-September issue by the Reason Foundation, a nonprofit, tax-exempt organization, 2716 Ocean Park Blvd., Suite 1062, Santa Monica, CA 90405. Second-class postage paid at Santa Monica, CA, and additional mailing offices. **POSTMASTER:** Send address changes to REASON, P.O. Box 526, Mt. Morris, IL 61054.

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SUBSCRIPTIONS: $24 per year. Outside U.S. add $8/year surface, $36/year airmail. Address all subscription correspondence to REASON, P.O. Box 526, Mt. Morris, IL 61054, 815/734-6309. For address change (allow six weeks), provide old address and new address, including zip code. **UNSOLICITED MANUSCRIPTS** returned only if accompanied by SASE. **INDEXED** in Readers' Guide to Periodical Literature, InfoTrac, Historical Abstracts, Political Science Abstracts, America: History and Life, Book Review Index, and P.A.I.S. Bulletin. Available on microfilm from University Microfilms International, 300 North Zeeb Rd., Dept. P.R., Ann Arbor, MI 48106.

POLICY RELAPSE

VIRGINIA I. POSTREL

The United States seems to have hit a ripple in the space-time continuum. Suddenly, it's 1971 again.

We have snapped back to that period of political adolescence when any problem—no matter how complicated—seemed solvable if only Congress would pass a law. As Sen. Jay Rockefeller told the Wisconsin Democratic convention in June, "We in Congress define what is possible with every roll-call vote."

Rockefeller is all-but-officially running for president, and he's doing so on what the Democrats' polls say is the party's most promising issue—health care. "Our health-care system is an outrage," Rockefeller said in Wisconsin, "and it will not change until we get everyone together and work out a plan."

Health care has obvious appeal for Democratic candidates. It lets them sound populist. It lets them sound compassionate. It even lets them sound probusiness. Everybody has to go to the doctor sometimes, and nobody—management or labor, rich or poor, old or young—wants to worry about the bills.

Best of all, nobody in voterland is likely to question candidates on the details of their health-care reform plans. Health care is what *Wall Street Journal* reporters call DBI—dull but important. Saying "insurance" is the fastest known way to put an audience to sleep.

To keep from boring audiences, candidates don't get specific. This also keeps everyone on their side. Real plans, after all, have to make tradeoffs. Vague speeches do not. They just hint of magic power, of the ability to grant Americans three wishes: as much great health care as we want, at no cost, with no waiting.

Back before the Jerry Brown-Jimmy Carter age of limits, Democrats used to be big in the wish-granting business. They'd tell us, for instance, that there'd be no more unemployment if Congress would just pass the Humphrey-Hawkins bill and outlaw it. Rockefeller's notion of the possible suggests a return to a Congress-constructed notion of reality.

The déjà vu gets even stronger. Elliot Richardson recently went before a Senate committee to praise Richard Nixon's health-care plan—the plan Richardson unsuccessfully promoted as Health, Education and Welfare secretary in 1971. Richardson, who has lost both his firm jaw and his bearings over the past 20 years, now backs a Democratic proposal to force all employers to provide health insurance or to pay an additional payroll tax of up to 8 percent. "In 1971, this was a Nixon administration proposal—a conservative, middle-of-the-road proposal," he said. "I find it ironic that Republicans are attacking Richard Nixon's proposal now."

Irony has nothing to do with it. Since 1971, experience has taught most Americans to be skeptical of crusades and promises, particularly crusades to reform anything as complicated as the U.S. health-care system.

Consider the mess that is Medicare. On June 5, the same day that Senate Democrats announced their mandatory-insurance scheme, the Bush administration unveiled a 628-page plan to generate a national fee schedule for Medicare. The schedule would set payment amounts for every kind of medical procedure and each type of physician. Among other details, it would favor low-tech medicine and rural physicians and would set limits on how much above government reimbursements doctors could charge Medicare patients.

Medicare pays physicians $43 billion a year—a figure that is rapidly rising—and the program now accounts for 25 percent of the average doctor's practice. The Bush fee-setting plan, says *National Journal*, "may be the most sweeping regulatory scheme since the government imposed wage and price controls in the early 1970s." (More 1971 déjà vu.) Having started out simply to care for the elderly, the federal government now finds itself engaged in out-and-out central planning.

Nor is that planning likely to get any less tangled. Already, skeptics are predicting that doctors will simply compensate for lower fees with more billable procedures. The incentive for rural doctors may turn into another farm subsidy, or it may transform these physicians into specialists for the elderly, leaving the rural young even more bereft of care.

These sorts of unintended consequences are just what naïfs like Jay Rockefeller ought to be looking out for, but aren't. The Senate Democrats' plan might give more people access to health care. It would also drive some employers out of business, force others to cut back on payroll, and, in the words of *Fortune* writer Lee Smith, "bring more people into hospitals for more overtreatment."

Smith notes that the public bears more responsibility for the "health care crisis" than is politic to factor into government plans: "The fastest-growing item on corporate medical bills is mental health care, caused in part by the alcohol and drug abuse of workers and executives and their families." And patients inflict many physical problems on themselves—by smoking and drinking to excess.

More promising than quick-fix plans in Congress is the slow process of reform going on in the private sector. Employers

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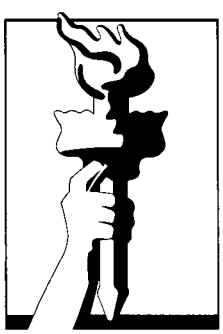

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spent $1,402 on group health insurance per full-time equivalent employee in 1989, up 36 percent from 1980 and 461 percent from 1960—even after accounting for general inflation. To get more for that money, they've experimented with health-maintenance organizations, preferred provider plans, and managed-care networks. They've subjected doctors to supervision and market discipline. And they've looked for ways to encourage employees to take better care of themselves.

Such promising programs could be wrecked by government favoritism. Nixon's '71 plan would have promoted HMOs, seeking to channel 90 percent of Americans into them by 1980. (Today, about 37 million people, roughly 15 percent of the population, are HMO members.) Had Nixon succeeded, HMOs might have flourished. But more-recent innovations, such as the managed-care networks that let patients opt (for an additional charge) to see non-network doctors, would have never come along.

Jay Rockefeller's planning won't solve our health-care ills, any more than Nixonian wage and price controls cured inflation. But it may forestall the very experiments we need to find a cure.

PRYOR CONVICTION

JACOB SULLUM

Even the most enthusiastic drug warrior would have a hard time explaining why Ernest Brown Pryor should spend 13 months in prison. The 19-year-old University of Virginia student, who made the mistake of selling an undercover police officer a half-ounce of marijuana and a third-ounce of hallucinogenic mushrooms, pleaded guilty in June to two counts of drug distribution near a school. After imposing the penalty required by federal law, U.S. District Judge James Harry Michael, Jr. said the sentence "tears up the court's conscience."

There will be more such sentences. Pryor was one of 12 students arrested on drug-trafficking charges at three University of Virginia fraternity houses last spring. After a six-month undercover investigation, 40 federal, state, and local officers raided the houses and seized about a dozen sandwich bags of marijuana, a few LSD tabs, and some psilocybin mushrooms. They also seized the three frat houses, valued at $1 million, under a federal asset-forfeiture law. In theory, some of the students could receive sentences of 100 years or more.

Like Judge Michael, Charlottesville Police Chief John deK. Bowen, who led the operation, had some misgivings. According to *The New York Times*, Bowen felt a "pang of sorrow" just before the raid and reflected that "several young lives were about to be ruined."

On balance, though, Bowen had no regrets: "While it was sad that a dozen young men would have to be arrested for dealing drugs, the price would be worth it if those arrests saved the lives and reputations of thousands of other young people." Perhaps so, but there was no reason to believe that the arrests would have any such effect. Neither common sense nor scientific evidence suggests that what these 12 students were doing—selling relatively benign mind-altering substances to willing buyers—posed a serious threat to anyone.

But the attempt to justify is noteworthy. Bowen knows that busting middle-class, white college kids gets people's attention in a way that busting poor, black inner-city kids does not. Michael called Pryor's case "outside the mainstream of drug cases." In other words, a kid like Pryor gets the shaft once in a while, but most of the time we're putting away the bad guys.

Drug warriors have to believe this. They can concede the obvious—that prohibition breeds violence and corruption, for example. But they cannot let go of the idea that, on the whole, the people punished by drug laws deserve it.

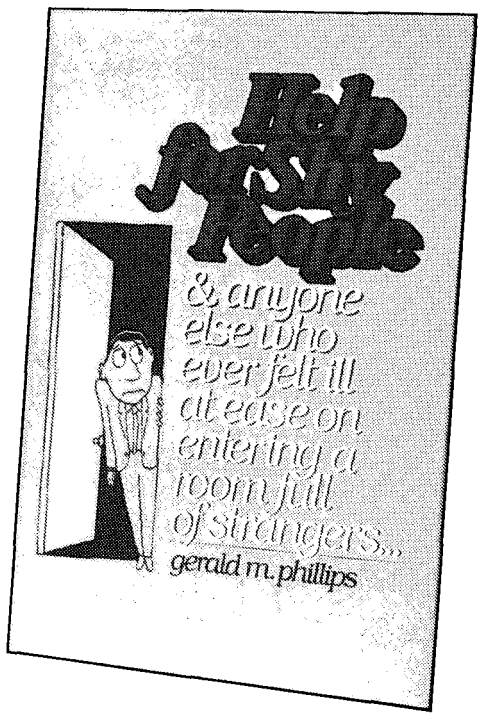
After all, drug offenders represent a large and growing share of the prison population. More than half of the inmates in federal prisons are there because of drug-law violations, up from about a quarter a decade ago. In local jails, 23 percent of prisoners are drug offenders, up from 9 percent six years ago. If most of these people are guilty only of crimes similar to Pryor's, we have to ask whether injustice is the rule, rather than the exception, in the war on drugs.

A recent study of prisoners in Florida suggests that drug warriors have a lot more to explain than the sentence received by one college student. Researchers at Florida State University examined a sample of 4,398 drug offenders processed by the state Department of Corrections. They found that most drug offenders *do not* commit crimes against people or property. "Many persons who commit property and violent crimes are also drug offenders," the researchers note, but "these represent a minority of drug offenders."

It's true that, as a group, drug offenders are more likely to commit crimes against people and property than the average citizen is. But so are blacks, poor people, and young, single men. Moreover, there are several ways to construe the link between drugs and crime. It could be that drug use encourages crime, or that people who are apt to commit crimes are also more likely to use illegal drugs. (Either way, prohibition makes matters worse by creating a black market and raising drug prices.)

But whatever analysis you apply, enforcing the drug laws is a very inefficient way to protect people from theft and assault. Indeed, because of prison overcrowding caused largely by the war on drugs, putting away a drug offender means releasing early someone who represents a direct threat to the public. To make room for kids who sell pot and funny mushrooms, our legal system frees burglars, muggers, rapists, and murderers. That's not just wrong. It's stupid.

Even the painfully shy can learn to get "...fame, fortune and beautiful lovers..."



Orig. Pub. $15.95
B&N Price $6.95

Freud stated that "...fame, fortune and beautiful lovers..." are the aspirations of artists. If you're shy, such aspirations are painful fantasies. The shy person is usually convinced that their shyness is an insurmountable obstacle. And as a result, they're condemned to 'lives of quiet desperation'.

Totally wrong. "Help for Shy People" shows you why.

Its author, Gerald M. Phillips (Ph.D., Professor of Speech Communication at Pennsylvania State University and the leading authority on Shyness), explains: "This book is directed at ways to improve your speech communication skills...Generally, shy people lack one or more of three capabilities: (1) the ability to think up appropriate things to say, (2) the ability to say things effectively, and (3) the ability to assess how well they are doing."

The recognition that *shyness stems from a lack of skill rather than a psychological disorder* is critical. Accepting that vital distinction opens the door to the means of dealing and changing the behavior of a shy person.

The book's twelve chapters and 250 pages provide you with a thorough understanding of what's known about shyness is a problem, such as:

- Routine Social Encounters
- Building Friendships
- Work Situations
- Love

The chapters are practical. There are detailed instructions on how to deal with the daily, ordinary instances which invariably hobble the shy person.

The chapters also provide detailed tests and practice outlines by which *you can train yourself* out of being shy. And each chapter provides a relevant list of suggested readings that further buttress your efforts.

Shy people don't have to be told the prohibitive cost–social and economic–of their condition. What nearly all don't realize is that they can, with the kind of assistance offered by "Help for Shy People", change their 'lot'.

Please don't demonstrate any shyness in finding out how to help yourself. Order "Help for Shy People" today at its sale price of just $6.95.

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IT'S OK TO HATE POLITICS

RICK HENDERSON

As the 1992 election campaign approaches, we're going to hear a lot about the disturbing levels of voter apathy. Voters keep staying away from the polls, and good-government types can't stand it. Turnout is at its lowest point in 70 years; most people seem genuinely uninterested in politics.

Unfortunately, political reformers routinely define apathy as "not voting." While this hypothesis is easy to test (all you have to do is count heads), it ignores the proud tradition of, say, the Constitutional Convention delegates who threatened to walk out unless the document included a Bill of Rights. Sometimes not voting reflects the belief that the lesser of two evils is evil.

People also stay away from the polls for less explicitly principled reasons. Many potential voters see career politicians as an entrenched interest group immune to the will of the electorate. That's why populists call lifelong Democratic and Republican legislators "the Washington Party."

Other nonvoters find ballots cluttered with initiatives they don't understand and office seekers they don't know. These folks may care deeply about the world around them, but they stay home on Election Day.

It's easy to worry about empty ballot boxes. But worrying doesn't mean you'll come up with helpful remedies. Look at what political journalists and Common Cause members tout as The Way to get people excited about politics: campaign reform. (The crowd yawns.)

One proposal, pushed by columnist Charles Krauthammer and *The New Republic*, among others, would require television networks and local affiliates to set aside blocks of free time for candidates to speak directly to voters. No visual aids. The candidate as talking head.

Defenders of such schemes routinely dredge up Willie Horton and the Reagan campaign's "Morning in America" ad. To them, political debate that evokes emotional responses isn't sophisticated enough. No, you have to make candidates seem like policy wonks. Important issues are too complex for Roger Ailes and John Sasso to manipulate. (Ironically, many of these reformers confess that much of our best political commentary comes from cartoonists.)

Such reforms are red herrings. If your idea of the perfect vacation is watching C-Span around the clock, these plans might sound attractive. But they won't make more people vote; they'll just make them switch to ESPN. And reformers incorrectly assume that electoral politics and voting are all that matters in life—and if you don't agree with their vision, they'll force you (and the networks) to pay for it anyway.

In truth, disturbing trends in the country are emerging. But as some astute observers recognize, these trends only peripherally relate to voting.

A fine new book by *Washington Post* writer E.J. Dionne explains *Why Americans Hate Politics*. In part, Dionne identifies a lack of connection between Americans and their political institutions. People see a professional government run by lifetime bureaucrats and conclude, It doesn't matter who gets my vote. Things won't change.

Despite his good reporting, Dionne offers an unconvincing prescription. He wants Americans to form a coalition that he calls "the new center"—which sounds like little more than government run by neoliberals, people who hate bureaucracy but love politics.

You won't find the solution to America's political malaise on "Washington Week in Review." But political activists could learn much from the recent travails of their daily newspapers.

People view newspapers as civic institutions. Papers cover city council meetings and report crimes. But they're also private enterprises driven by the marketplace. Right now, newspapers are struggling. But unlike political pundits, profit-oriented publishers can't afford to sit around and gripe about reader apathy. They have to sell papers.

The recession (a depression in the publishing industry) has damaged many newspapers, some fatally. So editors and publishers are testing all kinds of formats and designs to draw in new readers and regain old subscribers.

And they may have inadvertently discovered the way to energize Americans about their institutions: Embrace diversity. This concept of diversity means more than hiring minorities in the newsroom, which is merely another form of nose counting. Diversity means newspapers cover politics—but you also get sports pages, wedding announcements, and "Calvin and Hobbes."

To celebrate diversity you accept people as individuals with differing tastes. At its best, liberal society lets us spend our time doing both the profound and the mundane. It's OK to play softball, work in a homeless shelter, or watch "Cheers."

Reformers correctly see dangers in a society disconnected from its institutions. Our inner cities, for example, are becoming an explosive mix of fear, frustration, and violence. If political activists would stop scolding voters and instead address their concerns, Americans might care more about politics. You don't measure apathy by toting up ballots. And you don't cure political alienation by having Madonna threaten to give nonvoters a spankie.

■ Reprints of this issue's cover story are available at $1.00 each. For further information, contact Kevin Teasley at the Reason Foundation.

■ REASON will take its annual one-month hiatus after this issue. Our next edition will be dated October. See you then.

Paul Sarnoff, Editor
GOLD STOCKS ADVISORY

"In my half century as an investment pro...

I've never seen Wall Street more wrong-headed about gold shares."

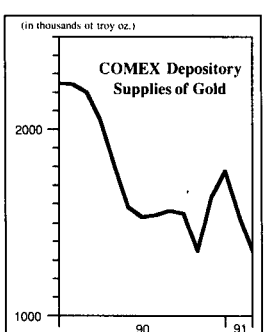
"Their bias is showing. Their view of gold production is 3 years out-of date. I do NOT think this unique situation will last long. In this letter, I'm going to tell you about three gold shares I'm convinced can help you rack up profits of 100%, 500%, even 1,000%."

I'm Paul Sarnoff, Editor of *Gold Stocks Advisory*. What I will tell you in this letter directly contradicts the conventional Wall Street "wisdom" about gold and gold shares.

We are at the dawning of a new era in gold production. The era of rapidly increasing production is over. We're entering an era of sharply lower gold production.

- South Africa's gold mining industry is in crisis. In 1990, 21 of South Africa's 48 gold mines lost money. This year, with gold around $360, more than half their mines will lose money.
- In Australia, repeal of a critical tax break for miners will help slash production 40%. An estimated one hundred tons of gold production per year will be lost by 1993.
- Even here in the United States, where gold production has taken an enormous leap, the gold rush is winding down. As *American Metal Market* phrased it, the "easy-to-find gold has been found." Indeed, in the past three years, 44 US gold mines closed down due to ore depletion or lack of profitability.

Meanwhile, silently, and totally unnoticed by Wall Street, the demand for physical gold has been surging. There has been a huge outflow of physical gold from the Comex Exchange warehouses. As you can see from this chart, investors and fabricators have gobbled up about one-third of the gold that was in the warehouses in early 1990. When you put the surge in demand together with falling supplies, you can see why I have turned so bullish on gold shares.



Gold reserves have fallen precipitously in the past few months. But virtually no one on Wall Street has noticed.

Profits from gold stocks... despite falling gold prices

When *Gold Stocks Advisory* lured me out of retirement in August of 1988, gold was trading at $450. Today, gold is trading around $360, about $90 lower. Wall Street tells you it's virtually impossible to make money in gold stocks in a declining gold market.

But in the September 1988 *GSA* issue, I recommended American Barrick while it was trading at $9.50 a share. Today, American Barrick trades at $19.50. That's a 105% profit for my readers in just two years.

Another of my recommendations -- DeBeers -- is up 128%. Our publisher bought the stock as an anniversary present for his wife shortly after my recommendation. His wife was very happy then. She's a lot happier now.

A third recommendation, this one a junior producer, is up 150%. Had you invested $5,000 on this recommendation, you could walk away with a cool $12,500 today.

I have my share of losers, just like anybody else. But because I use old-fashioned methods -- like hunting for mining shares offering real value -- so far the losses have been relatively minor. . . a point here. . . a half point there.

A good example came when we recommended to readers one of the world's greatest gold producers, then $8.50. The company is a low-cost producer (about $160 an ounce) with huge reserves. Yet, as the gold price fell to $360, this company went down a bit -- to $7.87. You see, we had made a first-rate selection offering real value. So, even though we got stuck in a rotten gold market, our readers didn't take a bath.

Of course, my past track record is absolutely NO GUARANTEE that future recommendations will be as profitable -- or profitable at all. You and I both know that ANY investment carries real risks.

But wouldn't you rather have a savvy old pro advising you, who doesn't depend on a rising gold market to make money for his readers? If I can steer my readers through the reefs and shoals in a rotten gold market like we've had, what sort of profits do you think are possible in a bull market?

Special Introductory Offer

I recently published a Special Situation Report "A New Era for Gold Stocks." We're offering it free to new subscribers, as a part of this Special Introductory Offer. In it you'll learn...

- ✓ Why Wall Street's picture of gold production is **three years out of date.**
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Editorial, Advertising, and Production Offices
2716 Ocean Park Blvd., Suite 1062
Santa Monica, CA 90405
(213) 392-0443

Washington Office
P.O. Box 8093
Silver Spring, MD 20907
(301) 565-7820

Circulation Service
P.O. Box 526
Mt. Morris, IL 61054
(815) 734-6309

Founding Editors:
Manuel S. Klausner, Tibor R. Machan, Robert W. Poole, Jr.

REASON is published by the Reason Foundation, a 501(c)(3) nonprofit educational foundation. Contributions to the Reason Foundation are tax-deductible. Signed articles in REASON reflect the views of the authors and do not necessarily represent those of the editors, the Reason Foundation, or its trustees.

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LETTERS

Lincoln's Log

It was flattering indeed that Steven Hayward judged *Lincoln on Democracy*, the volume Gov. Mario M. Cuomo edited with the help of 49 Lincoln scholars in 1990, worthy of attention in the ongoing debate over the true meaning of the Lincoln legacy ("The Children of Abraham," May). But Mr. Hayward was unfair to suggest that the book was an attempt by a Democrat to seize the mantle of Lincoln from the Republicans.

In fact, the governor's "Lincoln on Democracy Project" was initiated not by the Democratic governor but at the request of Polish teachers who visited him in 1989 and asked him to recommend books on American democracy for their rapidly democratizing country. When he suggested Lincoln, they replied sadly that his writings had been long banned there. The governor promised to help produce a new collection, and we are proud to report that 1,500 copies of the Polish translation, *Lincoln O. Demokracji*, arrived at the Education Ministry earlier this year.

The ministry plans to print 30,000 more copies. Even more heartening have been the unsolicited letters from Polish educators. The headmaster of the Liceum Ogolinoksztalcace wrote: "I think this book will help us in the knowing of democracy and will become one of the very important books in our library."

And its creation was a wholly nonpartisan effort. Its eight contributing scholars and 41 consulting scholars came from the broadest range of historical thought and included one of the great writers cited in your article, Don E. Fehrenbacher.

As for the governor's supposed "moral indignation" over the idea of accumulating wealth, it is clear that Mr. Hayward knows little about his views on opportunity—even those that spring directly from Lincoln. In his 1989 speech at Gettysburg, which Mr. Hayward mentioned but did not quote, Gov. Cuomo made quite clear that he shares Lincoln's "vision for a country where every citizen would be guaranteed a fair opportunity. In Lincoln's earlier words," he added, this means providing " 'an ever widening path,' where 'the weights should be lifted from the shoulders of all,' where all 'should have an equal chance.' " That, he said, was Lincoln's view of "the mission of democracy." And it is the governor's view as well.

It is exciting that Lincoln's words continue to provoke debate and discussion, but disheartening whenever clichéd preconceptions muddy the waters. Mario Cuomo no more favors "redistribution of the wealth" than Lincoln favored dictatorship, although both suggestions unfortunately found their way into Mr. Hayward's otherwise engaging article.

One area where Mr. Hayward and Gov. Cuomo appear to differ on purely philosophical grounds is the question of how actively Lincoln would be prepared to fight for "small-d" democracy in a 20th-century context. Mr. Hayward seems to think that the aspiration for equality and the concept of "limited government" were compatible to Lincoln, and possible for us. The governor maintains that neither is the case. As Lincoln himself put it, in another passage Gov. Cuomo repeated at Gettysburg in 1989, the question is not whether we can all "imagine better" but "can we all do better." Lincoln thought we could, and so does Mario Cuomo.

Harold Holzer
Co-editor
The Lincoln On Democracy Project
New York, NY

THE DECLARATION OF independence asserts "that whenever any form of Government becomes destructive...it is the Right of the People to alter or to abolish it." That's *whenever*, not "unless a major-

ity of their great-grandfathers voted for it." Lincoln's war can only be seen as repudiating the Declaration.

Hayward brings up "the crucial distinction that the Baltic states never consented to join the Soviet Union in the first place." This is a distinction? States are not people. The people living in South Carolina on December 20, 1860, were not the people who voted to join the Union on May 23, 1788.

The power to form the Union implies the right to dissolve it. When the experience of three generations convinced Southerners that the Union was not a good idea after all, why should their judgment be overruled by that of their dead ancestors who had no experience with the Union? If the people of South Carolina are not competent to judge whether the Union is "destructive of these Ends," who is? Congress?

Hayward asks, "What would defenders of secession say if, today, even a supermajority of states wanted to secede from California...?" As a California secessionist, I would naturally say hurrah. The question is emotional, not rational. There is no difference between the two events (secession by California from the United States and secession by the United States from California). I'd be disappointed if my boss fired me, but I will not buy from him the right to do so if the price is my right to quit.

Anton Sherwood
San Francisco, CA

IF WE EVER EVEN hope to understand the predicaments facing statesmen of the Lincoln-Douglas generation, we may as well acknowledge that only two of the many contending positions in the slavery/free-soil controversy of that era made any sense or possessed any logical coherence at all.

On one hand, if one assumes that a human being can be property, can be bought, sold, and owned, then the positions of all the most ardent Southern fire-eaters follow with perfect consistency. If a slave is as much property as is a horse, then any interference in the possession of that property is an arbitrary deprivation of property rights. This includes a limitation

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Secretary Baker's Peace Mission

Are he and the President putting pressure in the right places?

In the wake of the Gulf War, which many now believe we ended too early, Saddam Hussein and his army have inflicted the most horrible genocidal slaughter on the defenseless Kurds. But the President and Secretary Baker initially paid only cursory attention to this disaster, even though it is partly of our own doing. They are mostly fixated on the so-called "Israel-Palestinian conflict" and they are bringing renewed pressure on Israel to yield "land for peace".

What are the facts?

■ The Secretary may be handicapped by the fact that, until his recent visits, he had no real knowledge, no "feel" for the country and its unique problems. That is the more regrettable since Israel is certainly the closest (and perhaps only reliable) ally the United States has in the entire region. If he had deeper knowledge, he would realize that in the absence of any reliable and enduring peace with the Arab countries, Israel could not give up any of its strategic heartland, the so-called "West Bank". From the heights of the Judean hills, which he would have Israel yield to the Arabs, one can literally overlook Zion Square in Jerusalem, Ben Gurion Airport, and most of Israel's population centers, industrial plant, and military installations. One shivers at the thought of what would have happened to Israel if Saddam Hussein, instead of having launched his relatively innocuous Scud missiles from 450 miles away, could have positioned his armor, his planes and his missiles in the "West Bank" or on those Judean mountain ridges.
■ There are those who claim that, in these days of airplanes and missiles, territorial depth is of no military significance and that Israel should therefore not hesitate to relinquish the "West Bank" and Gaza in order to attain peace. But that is fallacious reasoning. Israel, according to the assessment of every knowledgeable military person, would be naked and indefensible if it were to yield those territories. If Israel did not control those territories it would, in case of surprise attack, be cut in half at its narrow waist before it had time to mobilize. Why the President and Secretary Baker continue to press this suicidal course on its most reliable ally in the area is a mystery. Is it because they don't really understand the murderous intentions of the Arabs toward Israel? The goal of the Arabs is not the establishment of a "Palestinian State" on the "West Bank". No, the real goal of the Arabs, embedded in the Charter of the PLO and never repudiated, is the total annihilation of the state of Israel. The presence of the "infidel Jews" in their midst is an unacceptable affront to the Arabs. The Palestinian state is a sideshow. Its purpose is to serve as a launching pad for the last "jihad" — finally to chase the Jews into the sea "where they belong".
■ And there are those who say that Israel doesn't really need any strategic depth. All that is needed would be guarantees by the United Nations and a mutual security treaty, which the United States would probably grant if Israel were to yield to pressure and would give up the "West Bank". The United States is undoubtedly the best friend and the greatest benefactor that Israel has. But Israel simply can't afford to entrust its security to a third party. Even with the best of intentions, the United States is far away. It took our country several months, and under ideal conditions, to build up a force to fight and defeat Saddam Hussein. If Israel were attacked — not just by Iraq, but by probably five or six other Arab countries, no help could possibly arrive in time if the enemy were poised, not beyond the Jordan, but on the outskirts of Jerusalem and within a few miles of Tel Aviv.

Our country has saved both Kuwait and Saudi Arabia from total destruction and from becoming provinces of Iraq . It is therefore disappointing that the President and the Secretary of State decided to lean, not on the Arabs but on Israel in order to bring about peace in the Middle East. One could have hoped for some gratitude at least from those two countries. Secretary Baker, as a first step in his peace mission, could have asked the Arabs to terminate their state of belligerency against Israel, to end their commercial boycott against Israel that has been in effect for over 40 years (long before Israel came into the administration of the disputed territories), and to renounce the slanderous equation that "Zionism is racism". But there is no leaning on the Arabs who, just barely having escaped their annihilation, are now as insolent and as arrogant as before. By leaning on Israel and by the constant repetition of the shopworn mantra of "land for peace", the President and the Secretary of State are endangering the only democracy in that wide area of the world and are instead giving comfort to the tyrannical Arab regimes, who are no friends of ours. The pressure is being put in the wrong place and it is applied in the wrong direction.

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of the right to take one's horse to the western territories, or on one's right to take the horse northward and still to own the horse on one's return, or any federal or "free-horse state" interference in efforts to recover a runaway stallion.

Any of these incursions upon property rights of an equine sort would be instances of tyranny, and enough such instances would justify a Lockean revolution on the model of that of 1776. Likewise, if and only if a slave is owned in the same way as is a horse, all the analogous acts both of Congress and of free-state legislatures were tyrannical and justified revolution.

The other consistent possibility begins with the proposition that "all men are created equal" in the very simple sense that no one man can own another. If no such ownership is legitimate, then the federal government ought to do nothing consistent with the pretense that it is. If there is no property in human beings, then the Fugitive Slave Act is an abomination. Further, the federal government ought to seek to undermine the "peculiar institution" that rests upon the pretense of such ownership. It ought to undermine that institution without any sort of compensation for the (purported) masters—because no one should be compensated for the loss of that which they had themselves never possessed!

If slavery is but the pretense of ownership, and if a government supports that pretense, then again Lockean theory supports revolution. The pertinent revolutionaries, on this theory, are Nat Turner and John Brown, not John Calhoun and Jefferson Davis.

Somebody was entitled to rebel, then, under either possible analysis of the situation. Consequently, both Abraham Lincoln and Stephen Douglas, at the time of their famous 1858 debates, held to logically untenable conclusions, awkwardly in between the two stools I have described.

Douglas maintained that slaves were property if and only if a state or territorial majority said so. I think it safe to say that he would have been shocked to hear anyone enunciate the same doctrine with respect to horses or white laborers. Lincoln argued, against Douglas, that slaves were property only where, by tradition, they long had been so, and that they could not be property farther north or farther west. Yet since the Fugitive Slave Law allowed for the pursuit of slaves across such lines, and Lincoln in his campaign for the Senate supported that law, one must note that he did not even adhere to his inconsistent position with consistency.

In their famous debates, Lincoln and Douglas each tried to prove that the position of the other man was nonsensical. Each succeeded. This is why the debates proved to be such good theater, and so memorable.

Christopher C. Faille
Enfield, CT

Mr. Hayward replies: As Mr. Holzer's letter is self-refuting in its final paragraph, it scarcely requires comment, except to reiterate the obvious fact that Gov. Cuomo has consistently favored higher taxes on upper incomes to pay for various frothy government social programs.

Mr. Sherwood employs the old trick of using ellipses to distort the meaning of the Declaration of Independence. The full sentence he cites is quite important: "That whenever any Form of Government becomes destructive *of these ends* [i.e., securing the unalienable or natural rights of individuals referred to in the immediately preceding section of the Declaration], it is the Right of the People to alter or abolish it...." The question of breaking the fundamental compact of union cannot be disconnected from the substantive question of the just ends of the present or prospective government. The Southern constitutions failed this test.

I welcome Mr. Faille's thoughtful letter, with which I largely agree. The logical weaknesses of both sides was preordained by the fateful constitutional compromise of 1787, which recognized chattel slavery within a regime of liberty. This was bound to lead to theoretical problems. The inconsistency Mr. Faille points out arises from the essential *moderation* of both Lincoln and Douglas; their desire to find a moderate solution required that they sometimes look the other way on the margins of their arguments. I think this can be regarded as responsible statesmanship, although the criticism is accurate. Unlike Mr. Faille, I do not consider Lincoln as inconsistent as Douglas. Lincoln's support of the Fugitive Slave Law, for instance, arose from his view that the Constitution should be upheld because constitutional principle would help generate the solution to the slavery problem over time.

Hill Street Bruise

While I am appalled and outraged over the police brutality incident in Los Angeles, I am even more appalled and outraged that Rick Henderson has engaged in character assassination and slander of Llewellyn H. Rockwell, president of the Ludwig von Mises Institute ("L.A., Lawless," May).

I read Mr. Rockwell's article. I could not find any endorsement of police brutality. He simply explained that our criminal justice system has favored criminals at the expense of crime victims. The legislatures and the courts have sold out to criminals at the expense of private citizens and law enforcement. No wonder that police brutality is the last resort law-enforcement officers have to fight increasing cases of crime. That is the point which Mr. Rockwell tried to get across.

Yet Mr. Henderson quoted Mr. Rockwell out of context to make it sound as if he endorsed police brutality; he did not. Frankly, I think Mr. Henderson owes Mr. Rockwell an apology.

R. Craig Culver
Houston, TX

NOT EVERY LIBERTARIAN takes the Al Sharpton-ACLU line on Rodney King. A career criminal juiced on marijuana and 40 ounces of malt liquor; speeding for five miles through the red lights and stop signs of a residential neighborhood; wildly punching the cops who finally blocked his car; making crude sexual advances to policewomen; refusing to be handcuffed; dancing and laughing maniacally; and fresh from suspected participation in yet another armed robbery, King did indeed get a two-minute what-for.

My sister used to live in a small Italian

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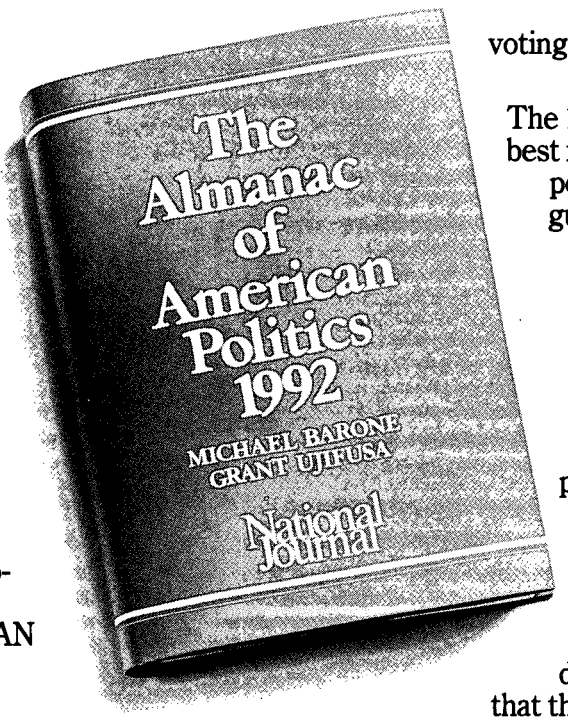

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neighborhood surrounded by high-crime slums. She could walk to the corner store at night and live to tell about it because baseball-bat justice was administered to any criminal caught in the area. As a result, there was virtually no crime.

You would condemn this, and Bernie Goetz too, but I remember that he made the subways safer for months.

But all this is low-tech. Why not, in light of your paean to cryonics, persuade King to freeze his head? We could tell him he's coming back as Robocrook.

Llewellyn H. Rockwell, Jr.
President
Ludwig von Mises Institute
Auburn, AL

Mr. Henderson replies: Mr. Culver can't find where Llewellyn Rockwell defends police brutality. I quote the Rockwell column: "As recently as the 1950s—when street crime was not rampant in America—the police always operated on this principle: No matter the vagaries of the court system, a mugger or rapist knew he faced a trouncing—proportionate to the offense and the offender—in the back of the paddy wagon, and maybe even a repeat performance at the station house. As a result, criminals were terrified of the cops, and our streets were safe." But the "mugger or rapist" Mr. Rockwell wants roughed up hasn't been convicted—or even arraigned; he's merely a suspect.

Is this out of context? Read Mr. Rockwell's response above and decide for yourself.

In the Rodney King case, the police had no way of knowing how intoxicated Mr. King was at the time of the beating. And the Highway Patrol's on-site report affirmed that while Mr. King acted erratically, he was hardly threatening.

But these are merely debating points for Mr. Rockwell. My editorial asked, What amount of force should two dozen policemen use to apprehend one unarmed suspect? And even if Mr. King is guilty of a crime, who metes out justice: the LAPD, or a jury? Mr. Rockwell may prefer state-imposed order (as in Saudi Arabia or Beijing) to individual liberty and the rule of law; but he shouldn't call himself a libertarian if he does.

A Few More Rounds

Jacob Sullum ("Gun-Shy Judges," May) missed a good opportunity to discuss the pivotal issue in gun control: How do you define *arms*? When the Second Amendment was passed, arms consisted of single-shot muskets. Does "original intent" justify machine guns and semi-automatics? Or do we define arms as being any gunpowder and projectile weapon, thus including most heavy artillery and cannons? You scholarly types at REASON should discuss this; the NRA certainly won't.

Daniel J. Ryan
Economics Department
Temple University
Philadelphia, PA

ALTHOUGH I DISAGREE WITH Jacob Sullum that the Second Amendment is the black sheep of the amendments (I happen to feel that description better fits the Ninth Amendment), I very much enjoyed his article.

As Mr. Sullum pointed out, the current rhetoric tends to obscure the fact that the first clash in the Revolutionary War, which took place at Concord on April 19, 1775, came about because the British heard that the Colonials were in possession of *cannon*. The Americans fought back to preserve their right to bear arms.

We can only hope that ultimately the current push for gun control will meet the same fate as the British.

Greg Raven
Los Angeles, CA

JACOB SULLUM CORRECTLY identifies the ACLU's unprincipled policy on gun control and Ira Glasser's waffling on the issue. More to the point is the way in which the ACLU justifies its official policy on the subject: It says that the Second Amendment does not guarantee the right of individuals to own a gun by citing "the setting" in which the amendment was proposed and adopted.

How convenient. Leaving aside the fact that, as Sullum pointed out, another school of thought cites British common law as "the setting" upon which arguments in favor of individual gun ownership can be made, there is the interesting anomaly in the ACLU's approach to constitutional law. Why does the ACLU feel it legitimate to invoke "the setting" in which the Second Amendment was written when it is all too willing to dismiss "the setting" in which the First Amendment was written?

Perhaps more inexplicable is the ACLU's characterization of gun control not as a civil-liberties issue but as a matter of social policy. Yet comparable worth, which has nothing to do with constitutional rights and everything to do with social policy, is nonetheless defended by the ACLU as a civil liberty. Apparently the ACLU's capacity for redefining the Bill of Rights is limitless.

William A. Donohue
Chair, Dept. of Sociology
LaRoche College
Pittsburgh, PA

Housing Project

I applaud Sister Connie Driscoll's program ("House of Hope," May). It's a classic example of what happens when you treat the root cause of a problem as opposed to treating the symptoms.

Ronnie Palmer
Alexandria, LA

BRYAN MILLER'S STORY about Sister Connie Driscoll left out some important information: Is she accepting donations and at what address?

John Taylor
Cowlesville, NY

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Getting in Tune

The dirtiest air in the nation may soon get cleaner. California hopes to sponsor the country's first demonstration project using University of Denver biochemist Donald Stedman's mobile, on-road pollution-testing machine. (See "Going Mobile," Aug./Sept. 1990.)

Stedman's testing device sends an infrared beam at passing cars and accurately measures individual vehicles' emissions. In tests of more than 250,000 cars, he has found that fewer than 10 percent of all cars cause more than 50 percent of auto pollution. And properly maintained cars, regardless of age or pollution-control equipment, don't cause significant amounts of smog.

The Los Angeles County district attorney's office—which has its own pollution-enforcement division—wants the state to set up a mobile-testing program featuring the infrared device. But the Environmental Protection Agency may stand in the way.

An amendment to the 1990 Clean Air Act requires state environmental authorities to include on-road pollution tests as part of standard inspection and maintenance programs. Rep. Joe Barton (R-Tex.), the amendment's author, wanted Stedman's technology to identify the cars with the worst emissions—and force the drivers of those cars to repair them. Unfortunately, the EPA's interpretion of the amendment could prevent states from using mobile tests to get "clean air credits."

Under the agency's draft enforcement guidelines, environmental officials can test cars in motion only at designated sites. Or they can pull drivers over and give cars stationary tailpipe tests. Mobile, on-road sensing is out.

As Dan McInnis, environmental policy analyst at the Competitive Enterprise Institute notes, these watered-down tests would merely duplicate current inspection and maintenance programs. And drivers of dirty cars could simply avoid designated testing sites. It's as if the EPA intentionally wanted to render mobile sensing useless.

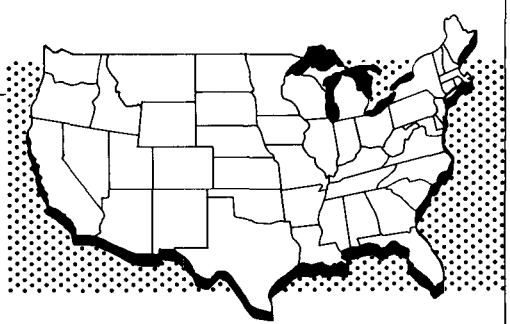
But Los Angeles District Attorney Ira Reiner has asked the EPA to let the state set up a remote testing program and still get clean-air credits. Last year, the state's Air Resources Board conducted a mobile-testing study and found nearly half the worst polluting cars had illegally altered emissions-control equipment. Reiner believes mobile testing is the only way to identify tampered cars. Officials can then force the owners to fix their cars.

In a letter to the EPA's air-pollution enforcement office, Barton praised the Reiner proposal as exactly the type of program he had in mind when writing the amendment. He urged immediate clean-air credits for California—and any other area using mobile, on-road testing. As of late May, the EPA hadn't ruled on Reiner's and Barton's requests.

Barton believes random, on-road tests could eventually replace traditional inspection and maintenance programs. "Annual [car] inspections," he says, "are about as effective in reaching gross polluters as an annual breathalyzer test would be in locating drunk drivers."

—Rick Henderson

Workers' States



The 1980s were a time of shrinking government, right? Wrong! At least not at the state level. Between 1980 and 1989, the population of the United States grew by 9 percent. But the number of persons on state payrolls skyrocketed by 19 percent. Leading the way was Florida, with an increase of 43 percent. (Florida's population grew by only 29 percent.) But the most dramatic gap between population change and the growth in the number of public employees was in Iowa. While the state's population fell by 5 percent, its state payroll jumped 29 percent.

Growth in State Employees Compared to Population Growth

	State Growth of Employees	Population Growth	Difference
Iowa	29 percent	-5 percent	34 points
New York	30 percent	2 percent	28 points
Kentucky	28 percent	2 percent	26 points
Wyoming	33 percent	7 percent	26 points
Connecticut	30 percent	5 percent	25 points
Kansas	29 percent	5 percent	24 points
Indiana	24 percent	1 percent	23 points
New Jersey	29 percent	6 percent	23 points
Ohio	22 percent	0 percent	22 points
Maine	28 percent	7 percent	21 points

Source: The Wall Street Journal

Money Myth

The disparity between public-school spending in posh suburbs and public-school spending in poor inner cities is a potent symbol of economic inequality. The contrast between schools in Watts and Beverly Hills, North Philadelphia and Lower Merion, is vivid testimony to the difference that property values (and taxes) can make.

But a recent study of Ohio's public schools contradicts the impression created by such comparisons. Analyzing achievement-test scores and per-pupil spending in more than 600 school districts, a policy analyst at the Urban Policy Research Institute found that, when socioeconomic factors were taken into account, students in districts that spent more performed worse, not better.

"The implication," study author Marjorie Davies notes laconically, "is that Ohio school districts are not effectively using existing dollars to boost student achievement."

Davies found that the most important factor affecting student performance was socioeconomic status, as measured by family income and welfare rates. More-affluent students tended to do better on achievement tests. But when she controlled for income and welfare rates, she found compelling evidence that more funding is not the way to improve public education: Higher spending was actually associated with *lower* test scores.

Per-pupil spending ranged from $2,807 to $11,106, with a median of $3,590. But even the lowest figure was high by private-sector standards. "Neighborhood parochial elementary schools in Cincinnati thrive on far less money," Davies notes.

Davies suggests that inefficiency in public schools is largely due to spending on heavy administrative costs, desegregation plans, and nonacademic programs such as social clubs and athletics. To curtail waste, Davies recommends school choice. Without competition, she stresses, money doesn't matter.

—*Jacob Sullum*

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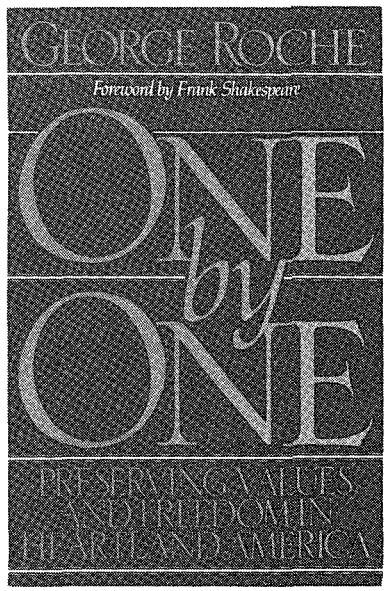

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Liberating Schools, Empowering Families

— A comprehensive case for school choice —

Education can break the cycle of poverty, but today's inner-city schools have become a major element of the poverty trap. In Cato's new book *Liberating Schools: Education in the Inner City,* 11 scholars and educators examine inner-city education and propose educational choice as a way to give all families access to quality schools—an idea drawing attention from the White House to the Milwaukee ghetto. Contributors include **John Chubb** and **Terry Moe, Pete du Pont, John E. Coons, Sy Fliegel, Bonita Brodt, Joan Davis Ratteray,** and **Robert S. Peterkin.** 220 pp./cloth $25.95/paper $13.95

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BALANCE SHEET

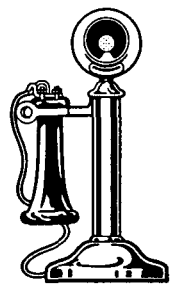
Assets

Splash Guard. Some common sense returns to wetlands regulation. (See "The Swamp Thing," Apr.) Under a new federal definition, wetlands must pass three tests. The soil must be peat or other mucky stuff. The land has to be flooded for at least 14 straight days during the growing season. And over half the vegetation must be wetland plants. The rules could be stricter, but give a tentative thumbs up to property owners.

Good Drugs. In a Harvard survey, 48 percent of U.S. cancer specialists say they'd prescribe marijuana to relieve their patients' nausea from chemotherapy; another 30 percent would consider it. Forty-four percent said they've already recommended pot to patients. And a three-judge panel of the U.S. Court of Appeals in Washington ordered the Drug Enforcement Agency to reconsider marijuana's medicinal value. If cancer patients can get morphine, why not pot?

Smog Futures. Southern California's South Coast Air Quality Management District designs the country's first market for clean air. In lieu of other regulations, the AQMD will set caps on how much pollution each business can emit. Companies can then cut smog any way they choose, or buy extra "shares" from lower-polluting firms. Pat Nemeth, the AQMD's person in charge, says share trading could start within two years.

Touch Someone. Coming soon: local telephone competition. The Federal Communications Commission may force the local monopolies to give alternate carriers access to their switching facilities. Chairman Alfred Sikes cites "an FCC commitment to reducing barriers to competition." Thanks, Mr. Chairman—now what about cable TV?



Liabilities

Running on Empty. To prevent leaks from fuel tanks, new EPA regulations force every gas station to carry at least $1 million in insurance. The premiums alone exceed the money many small stations generate from gas sales. The agency predicts *half* the gas stations in the country will close by October. And in some rural states, 70 percent will close, forcing residents to drive 50 miles or more to fill up.

48 Hours. Reversing centuries of common-law tradition, the Supreme Court rules that the police can jail suspects and hold them without a warrant for up to 48 hours—longer on weekends and holidays. Dissenting Justice Antonin Scalia says 24 hours is plenty of time to hold someone uncharged. And, Scalia notes, the Constitution isn't suspended after 5 p.m. and on weekends.

Walled Up. A California judge says murals are protected by an artists'-rights law. (See "Postmodern Art Laws," May 1990.) A muralist who got $4,000 to paint a Shell station wall wants $125,000 in damages because the station was sold and leveled. UCLA law professor Stephen Urice says graffiti may be protected next. Seriously.

Yew Cad! The drug some call the most promising new chemotherapy in a decade gets stalled by the greens. Taxol has reduced tumors in both breast-cancer and ovarian-cancer patients. But it comes from the Pacific yew tree—home to spotted owls. Viros want to keep yew trees uncut. A spokesman for the company developing the drug told *The Wall Street Journal*, "There are people prepared to let women die to save trees."

—Rick Henderson

Heated Debate

Climatologists have produced evidence that the earth's climate regulates itself, keeping temperatures from rising above a certain level. This calls into doubt the most-dire predictions of global warming.

"I cannot see how the planet can have a runaway greenhouse effect," says Veerabhadran Ramanthan, a climatologist at the Scripps Institution of Oceanography at La Jolla, California. Ramathan and his colleague William Collins studied the behavior of the ocean-atmospheric system over the Pacific during the 1987 El Niño. In this periodic event, naturally occurring changes in ocean currents cause the sea surface to warm by several degrees. The results of their study were published in the British journal *Nature*.

Ramathan and Collins found that as the sea surface grew warmer, water vapor increased substantially in the air. In turn, huge clouds formed. As the clouds climbed to freezing altitudes, they turned into gigantic "anvils" reflecting sunlight away from the earth. Eventually, the cloud cover became so thick, so widespread, and so highly reflective that it shut out the sunlight over the ocean.

With the sunlight shut out, the cooling began, and the clouds dissipated. Then the process started over. Critics of computer models of the greenhouse effect have long argued that such a process would occur, but this is the first proof that it does occur.

Ramathan says that the ceiling beyond which the ocean warms no further appears to be 90 degrees Fahrenheit on a monthly average. That's well below the 93 degrees predicted by some computer models of the greenhouse effect.

William A. Nierenberg, director emeritus of the Scripps Institution, contends that cloud formation may be only one of a number of feedback mechanisms that will limit global warming. "In fact," he told the *New York Times*, "the average global temperature change could be almost zero."

—Charles Oliver

We're in This Together

A New York state appellate court has ruled that manufacturers of similar products may bear industry-wide liability for one another's products. The court said that a plaintiff must be allowed to prove that companies not directly responsible for a particular accident helped create the safety hazard by, for example, fighting government regulations. If such a role is proven, any company that manufactured a product similar to the one involved in the accident could be compelled to pay damages.

The case involves a wrongful-death suit brought by the widow of a man killed by a multipiece tire rim that exploded when he was inflating a tire. The woman sued Goodyear, Firestone, Budd, and Kelsey-Hayes, all of which make multipiece tire rims. Goodyear and Budd asked the court to dismiss charges against them because the evidence conclusively showed that their products weren't involved in the accident.

While the court agreed that Budd and Goodyear weren't the manufacturers, it ruled that the plaintiff might introduce evidence that they were part of "an express agreement or tacit understanding" to keep knowledge of the product's defects from the public or to fight government regulation.

Joseph Farrell, Budd's lawyer, told *The Wall Street Journal* that the decision, if upheld by higher courts, "opens a terrible Pandora's box." John P. Mayesh, a New York liability lawyer unconnected with the case, contends that the decision "means Ford could be liable for an Toyota accident. It creates liability out of mere membership in an industry."

—*Charles Oliver*

VDT News

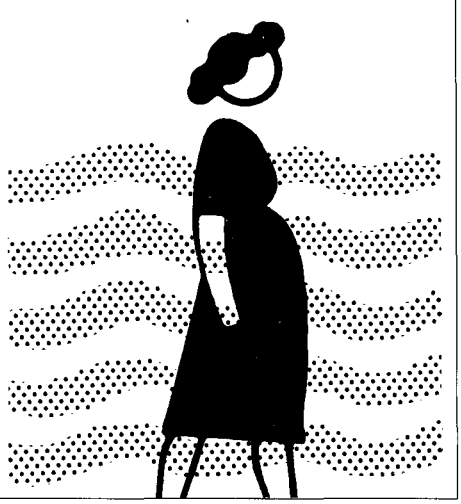
Video display terminals do not appear to cause miscarriages in pregnant women working near them. A seven-year study by the National Institute for Occupational Safety and Health found that 14.8 percent of pregnant women who worked at VDTs reported miscarriages. However, 15.9 percent of pregnant women in identical professions with similar lifestyles who did not work at VDTs also reported miscarriages. Both figures fall within the population-wide 11 percent to 20 percent miscarriage rate.

"I think the study is reassuring for women who are concerned about working with VDTs and the subsequent risk of miscarriages," report author Teresa M. Schnorr told the *Los Angeles Times*.

For about a decade, environmentalists have claimed that low-level electromagnetic radiation causes miscarriages, cancer, and a host of other health problems. They considered the cathode-ray tubes in VDTs, which generate the visuals on display screens, an important source of electromagnetic exposure for many women.

The NIOSH study was based on women's own reports of their miscarriages. As a result, it did not gauge the possible effect on miscarriages that occur in the first weeks of pregnancy before women learn that they are pregnant. But the study does support the findings of earlier, less-comprehensive studies that found no link between electromagnetic radiation and miscarriages.

—*Charles Oliver*



"They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."
Benjamin Franklin
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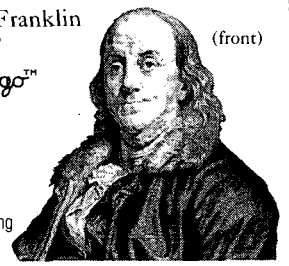

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BRICKBATS

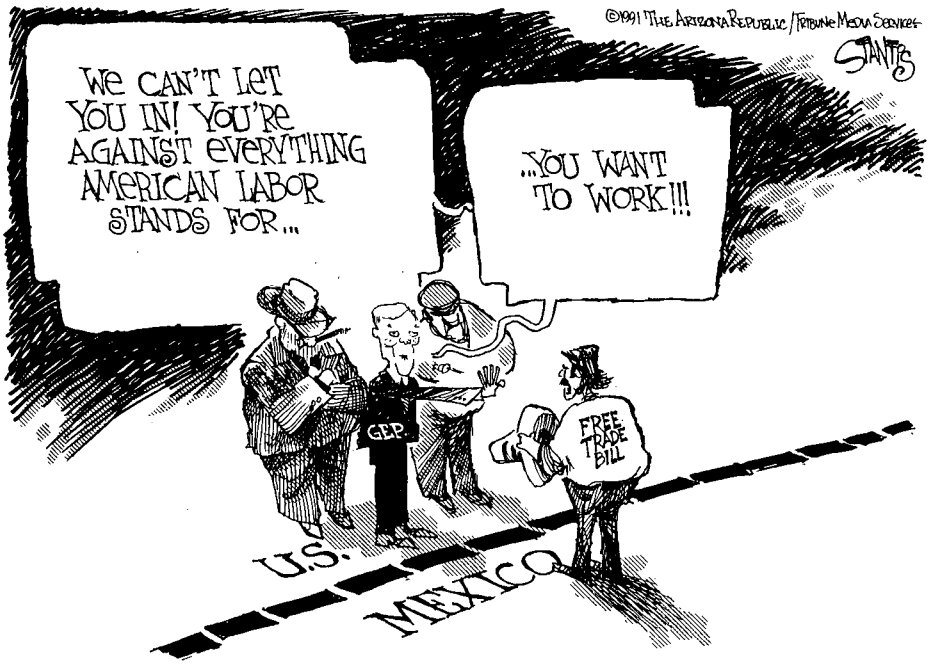
In Cherokee County, Georgia, officials must decide what to do with Snowball, a goat who butted his master to death. Roasting him with butter and garlic should send a message to other goats.

The conscience of rock and roll, Sting, told *Rolling Stone*, "We have too many people—we *have* to use birth control." The Stinger should know: He has five children.

A 10-year-old girl in Nicholasville, Kentucky, was hospitalized after a DARE (Drug Awareness Resistance Education) program at her school. Bruiser, a dope-detecting mutt, attacked the girl without provocation. She required 49 stitches to close the bite wounds. Listen closely. This is your face. This is a police dog. This is your face after being torn off by a police dog. Any questions?

Everyone agrees that New York City urgently needs more public toilets, but a firm that wants to provide them has learned that city officials aren't terribly concerned with the city's needs. A French company has offered to provide five public-toilet kiosks for free as a market test. But the mayor's Office for People with Disabilities insists that all the units be large enough for wheelchairs. There are two problems. First, the large units would be attractive sleeping quarters for the homeless, rendering them useless for the general public. Second, the city Arts Commission won't approve the larger kiosks because they are so big and unattractive. So New York gets no public toilets. And people wonder why the city is such a sewer.

Also in New York, the fancy restaurant Windows on the World has been found guilty of sexual discrimination. The crime: The eatery requires men, but not women, to check their raincoats.



And in Los Angeles, the trendy nightclub Vertigo is in court on discrimination charges. Undercover investigators from the Alcohol Beverage Control Board found that the club turns away people with a "lack of fashion sense." So the ABC has demanded that Vertigo admit on a first-come, first-served basis or lose its liquor license. Says ABC attorney David Wainstein, "Everyone should have equal access." I have a dream: that nightclubbers will be judged not by the color of their clothes but by their place in line.

Something to ponder: Trials in Florida are televised. In 1980, Roger Mudd asked Ted Kennedy why he wanted to be president, and the senator said, "Duhh." Ted's potential encounter with Sunshine State prosecutors should be the most entertaining thing on TV since Madonna's last video.

A survey reveals that 84 percent of French people cannot spell the name of their president, François Mitterrand. Another poll shows that 50 percent of the French want to bring back the guillotine. They'll write the president to tell him how they feel, as soon as they figure out how to address the envelope.

It seemed simple enough. Ohio legislators had approved an official state beverage (tomato juice), rock song ("Hang on Sloopy"), mammal (the white-tailed deer), and fossil (the trilobite) without much of a fuss. But when they took up a bill to make the square dance the official state dance, things got hot. Polka advocates claimed their dance deserved the honor. Both sides geared up campaigns, and staffers say they have gotten more mail on the bill than on any other. With no disrespect to either dance, the frug deserves some consideration.

The California bar has approved rules restricting sex between attorneys and their clients. They wisely decided that a lawyer should only screw his client financially.

—Charles Oliver

State-of-the-Art:

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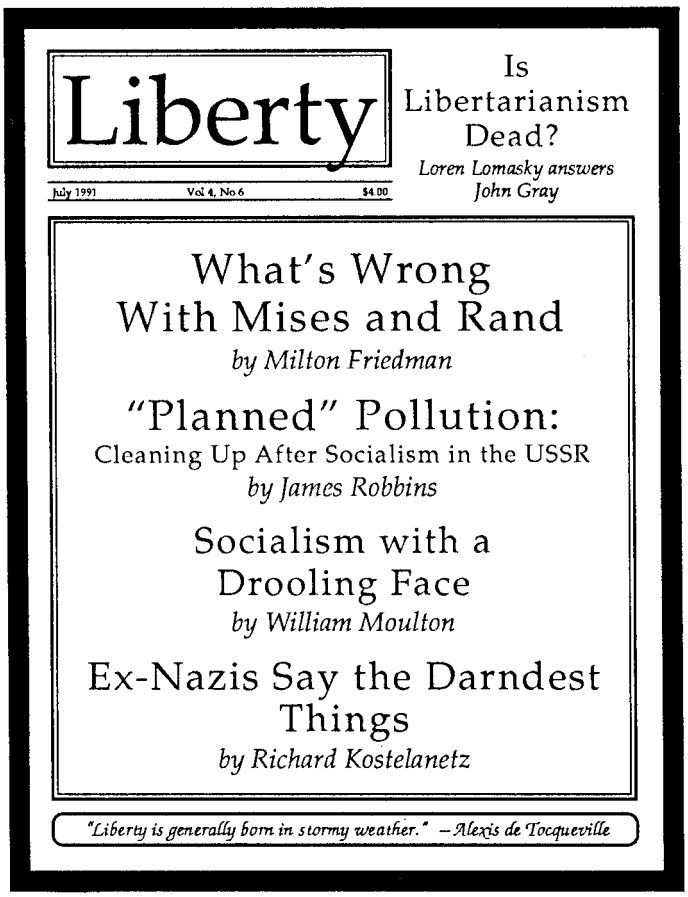

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Inside Ayn Rand's Inner Circle

In an exclusive interview, Barbara Branden speaks frankly about life with Ayn Rand and Nathaniel Branden (Rand's lover and Barbara's husband). She reveals for the first time intimate details of life inside Rand's circle. The fascinating topics include the weird psychological manipulations within the group, the expulsion of members in kangaroo courts, the glaring errors in Nathaniel Branden's memoir about his affair, and Rand's fight in a posh Manhattan restaurant with Alan Greenspan, now chairman of the Federal Reserve System.

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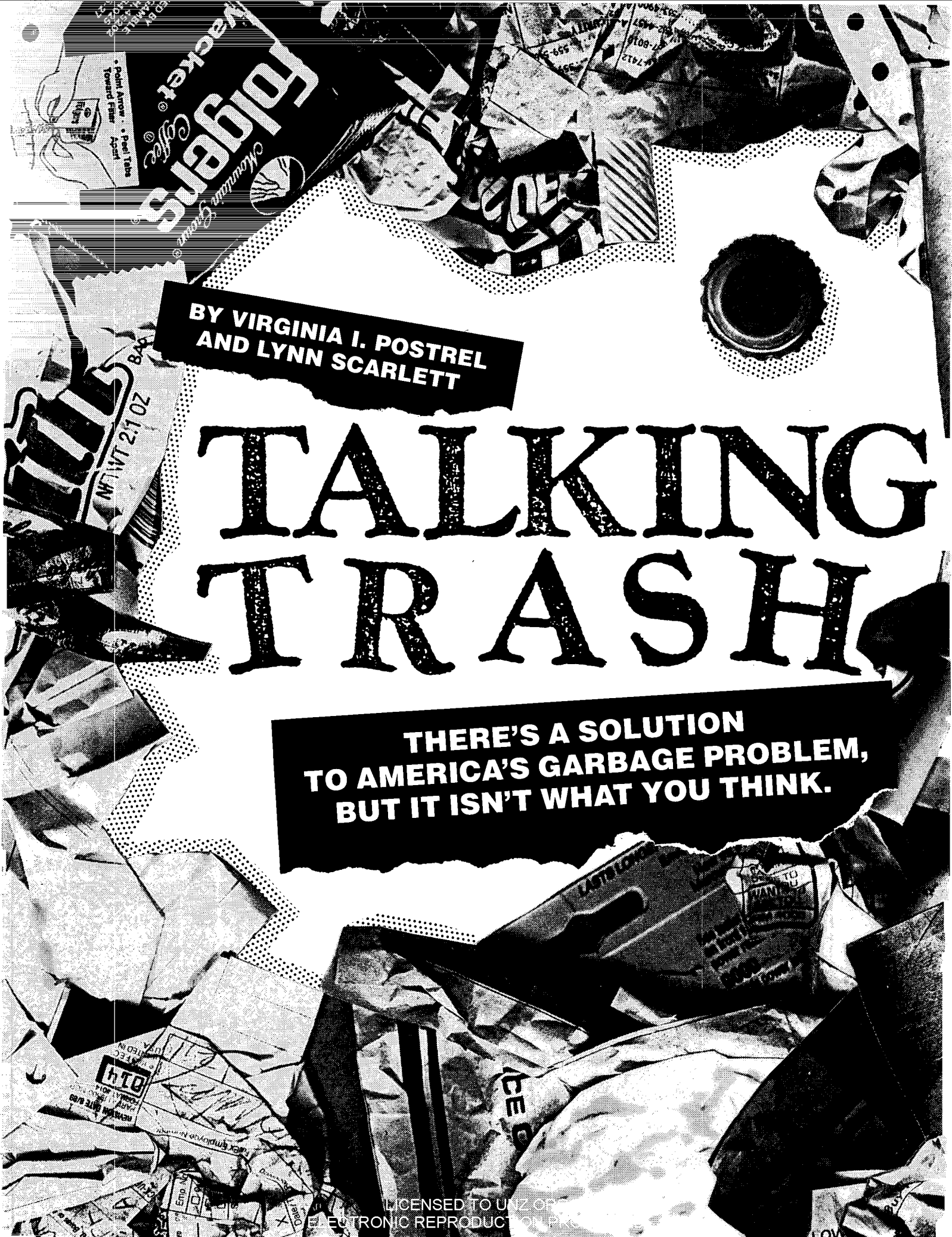

BY VIRGINIA I. POSTREL
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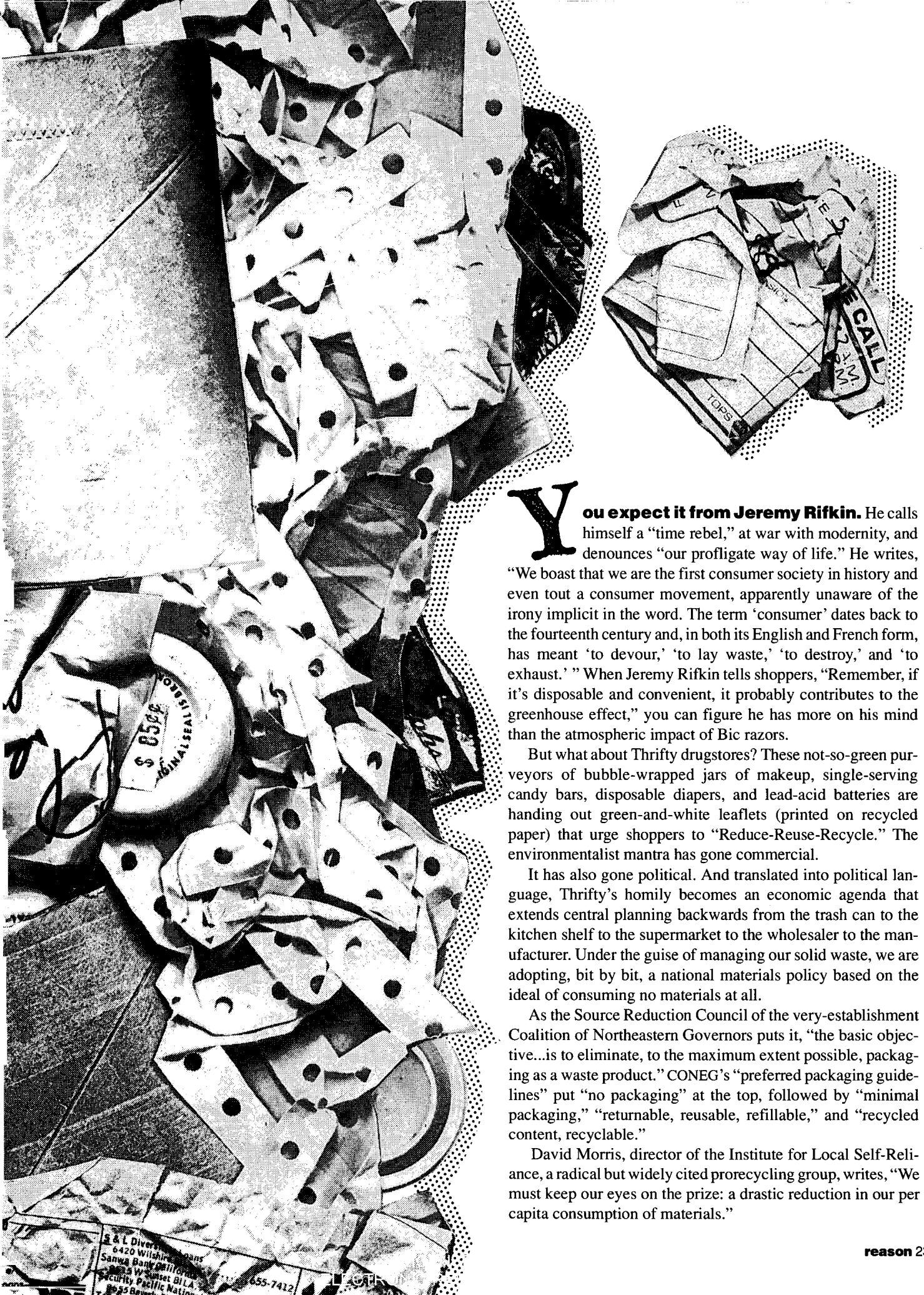


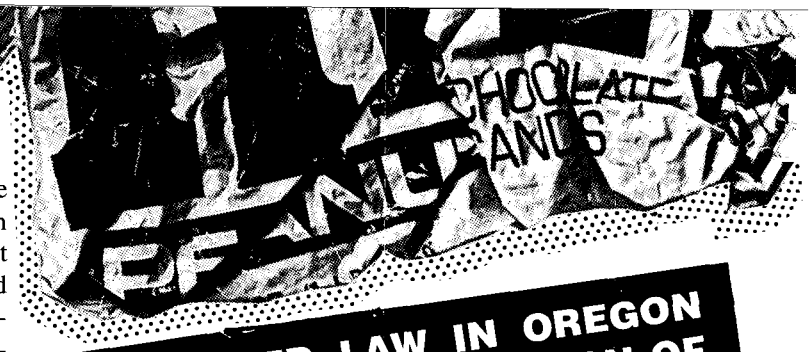
You expect it from Jeremy Rifkin. He calls himself a "time rebel," at war with modernity, and denounces "our profligate way of life." He writes, "We boast that we are the first consumer society in history and even tout a consumer movement, apparently unaware of the irony implicit in the word. The term 'consumer' dates back to the fourteenth century and, in both its English and French form, has meant 'to devour,' 'to lay waste,' 'to destroy,' and 'to exhaust.' " When Jeremy Rifkin tells shoppers, "Remember, if it's disposable and convenient, it probably contributes to the greenhouse effect," you can figure he has more on his mind than the atmospheric impact of Bic razors.

But what about Thrifty drugstores? These not-so-green purveyors of bubble-wrapped jars of makeup, single-serving candy bars, disposable diapers, and lead-acid batteries are handing out green-and-white leaflets (printed on recycled paper) that urge shoppers to "Reduce-Reuse-Recycle." The environmentalist mantra has gone commercial.

It has also gone political. And translated into political language, Thrifty's homily becomes an economic agenda that extends central planning backwards from the trash can to the kitchen shelf to the supermarket to the wholesaler to the manufacturer. Under the guise of managing our solid waste, we are adopting, bit by bit, a national materials policy based on the ideal of consuming no materials at all.

As the Source Reduction Council of the very-establishment Coalition of Northeastern Governors puts it, "the basic objective...is to eliminate, to the maximum extent possible, packaging as a waste product." CONEG's "preferred packaging guidelines" put "no packaging" at the top, followed by "minimal packaging," "returnable, reusable, refillable," and "recycled content, recyclable."

David Morris, director of the Institute for Local Self-Reliance, a radical but widely cited prorecycling group, writes, "We must keep our eyes on the prize: a drastic reduction in our per capita consumption of materials."



A PROPOSED LAW IN OREGON WOULD MAKE POSSESSION OF DISPOSABLE DIAPERS A CRIMINAL OFFENSE.

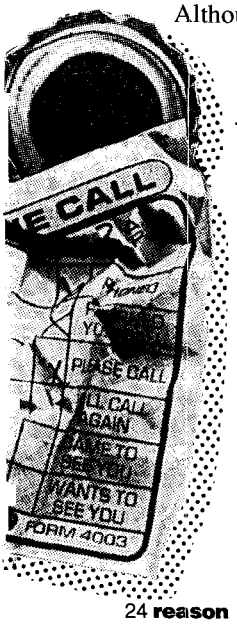
The agenda enunciated by Morris and the CONEG Source Reduction Council is founded not merely on anticonsumption zealotry (with a dollop of corporate opportunism thrown in). It is based on widely held misconceptions about Americans and their garbage. The United States does have some real solid-waste problems, but they are amenable to fairly simple solutions that require less, not more, government planning.

Perhaps it all started with Mobro, the Islip, Long Island, garbage barge. Back in 1987, the barge wandered from port to port, searching for some place that would accept the garbage it carried. After six states and three countries rejected its load, *Mobro* returned to New York. A Brooklyn incinerator burned the trash, and the waste ash went home to a landfill in Islip.

The Northeastern landfill shortage became a national story. Newspapers and TV shows told tales of the nation's impending garbage crisis. Landfills were closing. Waste was mounting. Soon every city in the land would have a garbage-filled barge roaming the seas.

The reports scared people. Politicians who had been content to leave garbage management to specialists decided something had to be done. So they passed laws. In the early '80s, only 140 American cities had curbside recycling programs. Today, however, more than 2,700 communities nationwide pick up residents' cans, bottles, and newspapers for recycling. In most of these places, recycling is mandatory for at least some residents.

More important, 28 states enacted recycling or waste-reduction quotas—Florida, for instance, will require 30-percent recycling by 1994, a demand that has solid-waste managers there in a near panic. Another five states have set nonmandatory goals. (The Environmental Protection Agency recommends a 25-percent diversion of the solid-waste stream by 1992, 50 percent by 1997.) Once enacted, these increasingly common laws drive all solid-waste management decisions in their states. They shift the policy emphasis from safe and efficient waste disposal to reducing consumption.



Although its targets are only recommendations, the EPA has played a major role in that shift. In 1989 the agency issued a report, *The Solid Waste Dilemma: An Agenda for Action*, in which it identified four means of managing solid waste: 1) source reduction; 2) recycling; 3) incineration; and 4) landfilling. These are, in one form or another, the options people have had since the Stone Age. But the EPA didn't just list the options. It ranked them. It created a waste-management hierarchy, with source reduction at the pinnacle, flanked by reuse and recycling. Incinerators and landfills were left groveling in the dust, grateful that they were allowed to exist at all. Although it acknowledged that sound solid-waste management would involve all four options, the EPA made it clear that in all situations source reduction and recycling are preferable to burning or burying trash. "Reduce-Reuse-Recycle" became the national standard.

The EPA hierarcny diverts government policy from "integrated waste management," the technocratic way of mixing the four options in whichever combination best fits local needs. Instead, it has prompted—and given political support to—a mania for aggressive recycling and source-reduction efforts, regardless of cost, overall resource use, or local conditions. The EPA has lent respectability, even urgency, to calls like David Morris's to "demand an immediate halt to policies that promote materials destruction. That would include not only stopping incinerators, but ending the promotion of degradable plastics whose destination is not the recycler but the landfill."

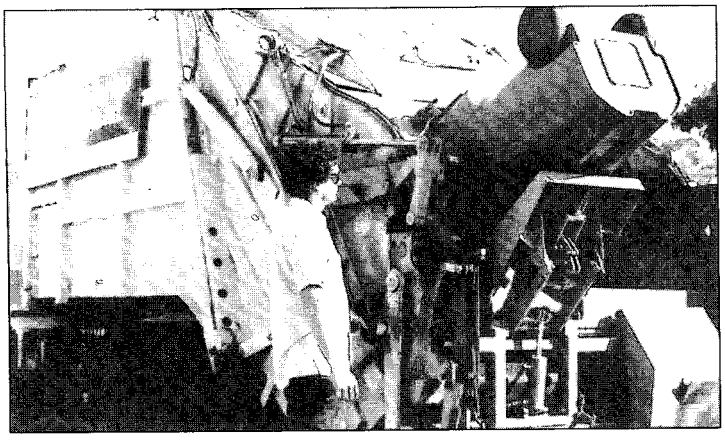
In the wake of the EPA's report, members of Congress have proposed amendments to the Resource Conservation and Recovery Act (RCRA) and Solid Waste Disposal Act (SWDA) that would, among other things:

- Require that nonrecyclable materials be biodegradable and prohibit, after five years, any material that is neither biodegradable nor recyclable.
- Create a National Packaging Institute to establish national packaging standards.
- Mandate a return deposit on plastic and glass containers.
- Ban in interstate commerce any plastic container that isn't marked with a code indicating its composition to recyclers.

RCRA, better known for its hazardous waste provisions, is up for reauthorization this year, so Congress will soon be seriously considering amendments. (See "A Hazardous Waste," November 1989.) So far, however, most of the action to move the country toward a national materials policy has occurred on a piecemeal basis, at the state level.

"If you don't recycle, Santa Monica will look like the inside of this truck," read the signs on the garbage trucks that rumble through the city's streets. Santa Monica, California, is the kind of city that paints its garbage trucks sea blue, instead of the usual grunge-hiding dark green. And it's the kind of city that started a recycling program in 1981, a decade before it was fashionable. Recycling costs the city about one-and-a-half times as much as ordinary garbage collection and landfilling.

"These guys drive an awful lot of miles sometimes to pick up very little," says Thomas Dever, Santa Monica's solid-waste manager. After nearly a decade of practice, Santa Monicans recycle about 12 percent of their garbage—through a curbside



Santa Monica's curbside recycling program costs one-and-a-half times as much as ordinary garbage pickup.

recycling program, a buyback center, and various small recycling companies.

Dever's job is to push that recycling rate up—way up. The state of California has decreed that all cities must cut the amount of trash going into landfills or incinerators by 25 percent by 1995, 50 percent by 2000.

Dever is a can-do guy, and he says he can get Santa Monica to 25 percent recycling by '95. Of course, hitting that target will mean more expense—for a plant to sort and process recyclables and an expanded recycling program. Two-thirds of the city's refuse is commercial, and about 40 percent of that, mostly corrugated cardboard, can be recycled. If the city's many small businesses will turn in their cardboard and office paper, and if a combination of economic incentives and jawboning can raise residential recycling rates from the current 4 percent ("tokenism," says Dever) to around 7 percent, the city can make the 25-percent quota.

But 50 percent—that's a different story. To meet that target, he says, will depend on "source reduction." There's only so much you can recycle, even when cost is no object.

Although it can just mean using less material—say, cutting the weight of a plastic milk jug from 95 grams to 60 grams, as manufacturers did over the last 20 years—"source reduction" as a policy goal often leads to product bans. North Carolina will outlaw polystyrene foam (such as Styrofoam) food packaging after October 1, 1993, if it isn't being recycled at a 25-percent rate. Several cities, such as Portland, Oregon, and Newark, New Jersey, have already effectively banned the stuff. A bill in California would prohibit the sale of compact-disc "long-boxes." In 1989 Maine banned aseptic packaging—the small, rectangular beverage boxes especially popular with children. (The ban exempted Maine apple juice.) Other cities and states have proposed bans on disposable diapers. Indeed, one proposed law in Oregon would make possession of disposable diapers a criminal offense.

Such bans usually have little to do with actual solid-waste problems, much less overall environmental impact. An aseptic drink box, for instance, is among the most "source-reduced" containers on the market, tipping the scales at a mere 10.3 grams. By contrast, the traditional gable-top drink carton, which requires refrigeration and takes up more room in transit, weighs 90 percent more, or 19.6 grams, and holds slightly less juice, 8 ounces versus 8.45 ounces. Similarly, the much-maligned polystyrene foam is one of the lightest container materials around. In both cases, the materials can theoretically be recycled, but accumulating enough stuff to make recycling economical is quite difficult. By the same token, these lightweight, low-volume materials take up very little landfill space: 0.02 percent for drink boxes, only 0.002 percent for polystyrene food containers.

Solid-waste policy used to be left to calm problem solvers like Tom Dever. But the chance to pick and choose which products people should use—and dispose of—brings out emotional paternalists like California state Sen. Daniel Boatwright.

It's a Wednesday afternoon in early May. The state Senate committee on which Boatwright sits has been hearing testimony on a proposal to levy an excise tax on disposable diapers. The hearing has been perfunctory, with only two witnesses allowed to speak on each side. Another 10 or so have gone on record against the bill, many submitting written materials. To show how the tax would hurt poor mothers, for instance, Gloria Torres has given the Senate committee a breakdown of a couple of family budgets. Each family spends $84 a month on disposable diapers.

It's Sen. Boatwright's turn to speak. The quiet committee room explodes with his anger. "These are AFDC mothers, they have other clothes to wash, and if they're spending that much money, I would certainly urge those people to go to *cloth diapers* to save $84 a month." Boatwright gets madder, his voice more contemptuous. He points to committee members. "He, he, he, she, we raised our kids with cloth diapers. And you know, it didn't kill 'em at all. It didn't kill 'em. Got your hands a little dirty, maybe, but it didn't kill 'em. It's a hell of a lot more convenient to use disposable diapers, but you know what—*you save a lot of money* when you use cloth diapers."

Boatwright is a liberal Democrat, not especially prone to frugality. He doesn't begrudge the mothers the money they get from the state. He just doesn't approve of the diapers. Like Grumpy Old Man on "Saturday Night Live," he remembers the old days, when life was lousy "and we *liked* it that way." Despite Boatwright's outburst, the bill dies, failing to get a motion in its favor.

The diaper bill, and the outburst, are minor but indicative. Disposable diapers account for less than 2 percent of the nation's solid-waste stream. But they make great symbols. Mankind—or, more accurately, womankind—managed to do without them until about 1970. They're highly artificial, engineered of plastic and synthetics and paper. You use a diaper once, then discard it. Disposable diapers seem self-indulgent, the kind of silly convenience that puts the *waste* in solid waste.

SOLID WASTE MANAGEMENT, CITY OF SANTA MONICA, CA

On similar grounds, Greenpeace has attacked facial tissues, and Hannah Holmes, an assistant editor of *Garbage* magazine, has denounced tampons.

In the water-short West, of course, it's easy to counter that cloth diapers consume a resource far more precious than landfill space. And much public debate has focused on whether, in fact, disposable diapers really are "worse" for the environment than their predecessors. Several life-cycle assessments—studies that try to look at all of a product's environmental impact from manufacture to disposal—have examined disposable diapers, each with somewhat different results. One assessment gave disposables a better environmental report card than cloth diapers; others showed the opposite. And so the debate goes on.

But arguments over cradle-to-grave studies miss the point. The studies show the costs of various options, the trade-offs between water use and energy needs and air pollution and solid waste. They don't show the benefits. They don't consider why consumers buy disposable diapers or why juice makers use aseptic packaging. Pampers or Huggies or, for that matter, Kleenex tissues may fill up landfills faster than cloth diapers or handkerchiefs. But the people who buy them care about other values, too—convenience, or health, or comfort.

When it switched from polystyrene to paper wrappings, McDonald's improved the environmental impact of its packaging. But it now risks losing customers who want to keep their hamburgers hot on the way back from the drive-through or whose kids like the old Happy Meal box better than the new paper sack. While McDonald's presumably weighed these trade-offs, legislative proposals to ban or regulate disposable products seek to replace such weighing and balancing with political diktats. They seek to tell McDonald's competitors that they must also switch, even if they value their takeout business—and the polystyrene containers that keep it hot—more than they fear environmentalists' attacks.

Product regulations also treat similar products as though they serve identical needs, differing only in their environmental impacts. This may be true of some products—it's hard to see any substantive difference between bleached and unbleached coffee filters—but it isn't true of most. Both kinds of diapers cover Baby's bottom, but each offers a distinct bundle of other qualities. Cloth diapers are less expensive and, if changed promptly, may be more comfortable.

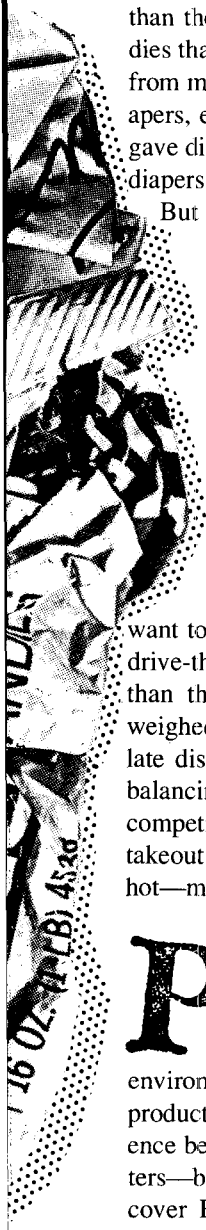
Disposables, on the other hand, appear to prevent diaper rash, leak less, and are much more sanitary and convenient for use in day-care centers. Indeed, the American Academy of Pediatrics and the American Public Health Association's day-care program performance standards state "that to protect the public's health, cloth diapers should not be used in day-care centers." Most state day-care regulations forbid caregivers to rinse cloth diapers, so that not using disposables means sticking dirty diapers in plastic bags or diaper pails and sending the whole package home with Junior. Needless to say, day-care providers have been vocal opponents of bans or taxes on disposables.

Or go back to Gloria Torres's welfare mother. She has four kids, no washer, no dryer, and no car. Once a week, she does three loads of clothes at a laundry; each load costs $1.25 to wash and dry. Her kids go through 288 disposable diapers a month, about 10 a day. Since disposable diapers are more absorbent than cloth diapers, we can assume she'd need at least a dozen cloth diapers each day—and would probably wind up going to the laundry daily. (This is a conservative estimate; it often takes two cloth diapers to replace a single disposable.)

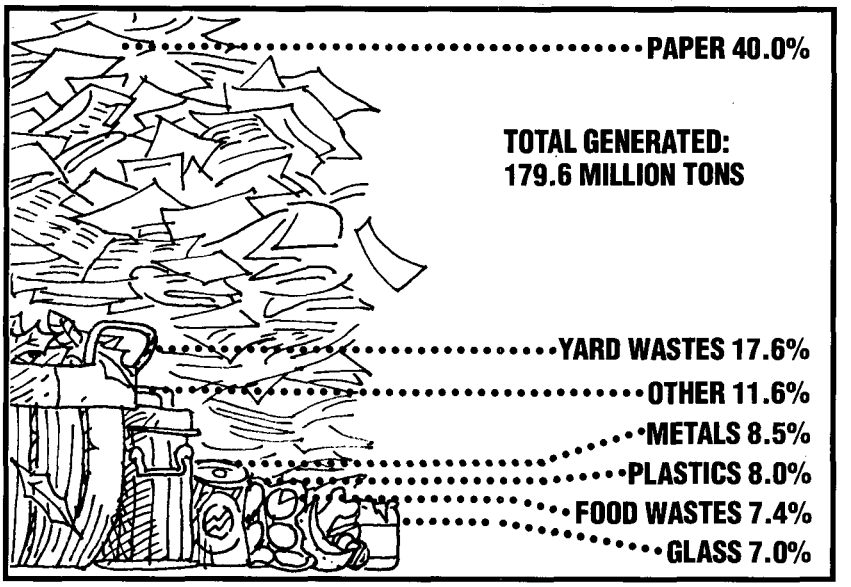
This mother already pays $100 a month for people to take her places. Dragging a heavy pail of dirty diapers to the laundry every day or two would mean more rides. It's true cloth diapers would probably still save at least some money, perhaps as much as $50 a month. Nevertheless, it's hardly surprising that poor mothers choose to sacrifice other purchases to buy disposables. Time and trouble, even a welfare mother's time and trouble, are also limited resources.

Products don't exist in isolation. The economy is a complicated web of interactions. Disposable diapers are substitutes for laundry facilities. They are complements to day care, as are drink boxes that let even tiny kids brown-bag it. On the manufacturer's level, packaging can substitute for warehouse space or factories. The exotic layering of metals and plastics that keeps Keebler cookies fresh for as long as nine months after they leave the oven lets the company distribute them throughout the United States without having a plant in every city. Combined with new recipes, the packaging lets you buy cookies that are still soft months after they're made.

And packaging often reduces waste. When William Rathje, of the University of Arizona, took his garbage-archaeology

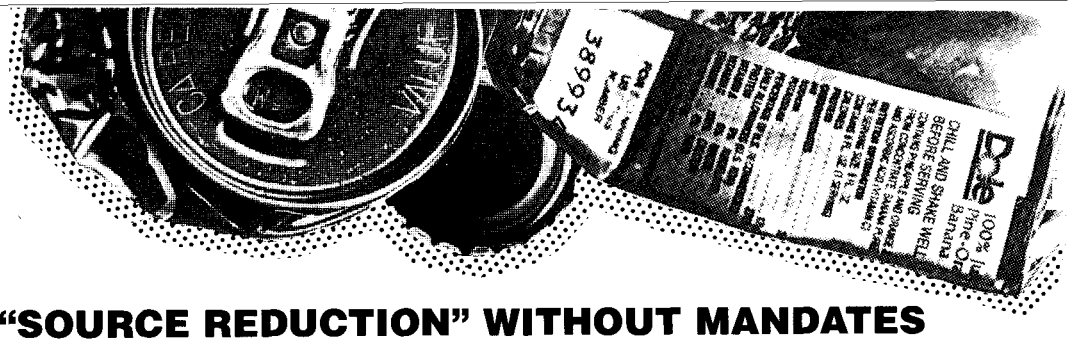


U.S. MUNICIPAL SOLID WASTE, 1988



SOURCE: ENVIRONMENTAL PROTECTION AGENCY

ARTHUR MATSON



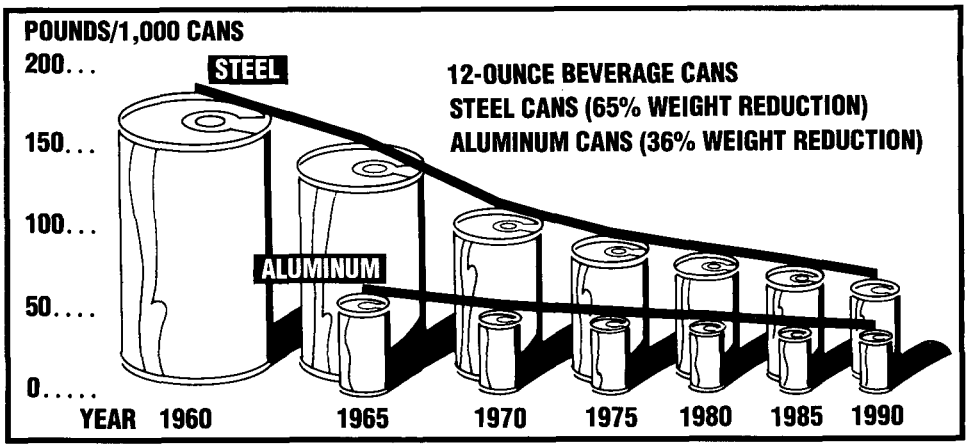
team to Mexico City, they found that the average household in Mexico City "discards 40 percent *more* refuse each day than the average USA household." Rathje writes, "This difference—1.6 pounds per household per day—is food debris, the skins, rinds, peels, tops, and other inedible parts discarded in food preparation."

For instance, in Mexico City, most consumers squeeze fresh oranges to make orange juice. The peels are then thrown away. Americans, by contrast, tend to buy packaged frozen concentrate. As a result, the typical Mexican household tosses out 10.5 ounces of orange peel each week; the typical American household throws out 2 ounces of cardboard or aluminum. Meanwhile, back at the orange juice factory, the peels are collected and sold to make animal feed and other products. If all the orange juice drinkers in New York City individually tossed away their orange peels, one day's haul would weigh as much as two ocean liners.

This isn't to say that people shouldn't drink fresh orange juice. Certainly, it tastes better than processed juice. But the notion that "no packaging is the best packaging" fails even the dumpster test.

The economy's complex interactions can produce surprising results. Consider a study by the research group GVM that examined what would happen if all plastic packaging were eliminated in the Federal Republic of Germany. The report found that materials usage by weight would increase fourfold, as substitutes replaced plastic. Packaging costs would more than double. Energy consumption would almost double. And garbage would increase by 256 percent. The report comments, "all of the cost-intensive endeavors, over many years, to reduce the use of material through more suitable packaging and 'slimming down' individual packaging materials would be [reversed] with one stroke."

"SOURCE REDUCTION" WITHOUT MANDATES



Richard Pence isn't at all happy with Ohio's new requirement that 25 percent of all garbage be recycled by 1994. His family business, Pence Refuse Service, has been hauling trash since 1958. Now the state says they have to get into the recycling business: "They want you to get started right away. There's not much chance to gear up for it." What's more, the company is required to weigh the trash it collects at each stop—not in order to charge customers by the pound but to see whether they're meeting the 25-percent target. "The bookkeeping is unreal," says Pence.

The nine-employee company is struggling to adapt. It is separating and baling cardboard, milk jugs, and such, despite the lousy economics. Baling 900 pounds of corrugated cardboard costs $25, not including collection and sorting, but buyers will only pay $20 to $30 a ton for it. Recycling, says Pence, "takes a lot of money to operate, and there's no money in it. It's rough on a little company."

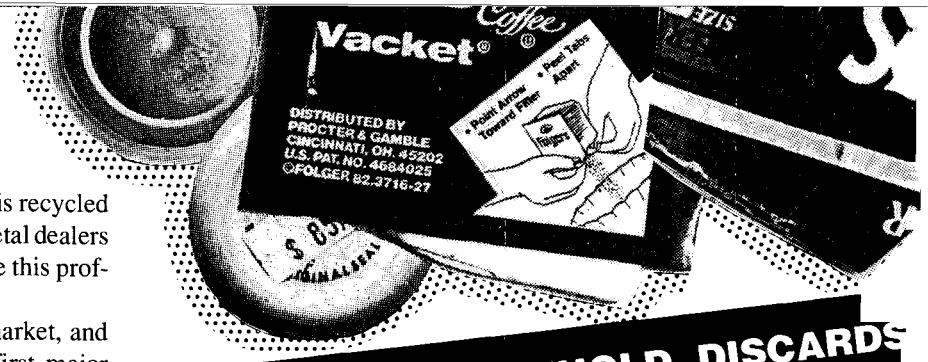
The work is hard and, Pence fears, dangerous. A few years ago, he suggests, the government probably wouldn't have even let you do it: "You handle all these pop cans, all these food cans." Using a new can baler, "I got cut twice yesterday. That has to be a health hazard." He's afraid for the family members who work with him. Some of his fears aren't well grounded—nobody ever got AIDS from a used soda can—but it doesn't seem crazy to wonder what evils might lurk in a used milk jug or the rim of a tin can after they've sat around in the good old summertime.

So far, Pence Refuse has managed with its regular trucks and small building. But Dick Pence expects he'll need to invest in more-specialized trucks and add a $200,000 building to use as a processing center. The costs, he figures, will be passed on to the businesses whose trash the company hauls away. Contrary to *The Recycler's Handbook* (from the folks who brought you *50 Simple Things You Can Do to Save the Earth*), it is not true that "recycling saves towns and consumers money."

In fact, the move to recycle rather than dump or burn trash can cost plenty. A survey of Rhode Island communities found that the total cost of recycling—including pickup and processing, minus revenue from the sale of recycled materials—often runs more than $180 a ton, compared to the $120 to $160 a ton for ordinary waste collection and disposal. The outlay is especially high in cities with many multifamily dwellings. In Chicago, for instance, curbside recycling costs from $625 a ton to more than $1,100 a ton, depending on the area of the city; from that fee, the city can deduct about $110 a ton in sales and the $38 a ton it would have paid the landfill.

Generally speaking, landfill "tipping fees," the price of depositing debris, have to be more than $50 a ton—compared to a national average of $30 and a median of around $15—to make recycling economically competitive for most materials.

ARTHUR MATSON



A MEXICAN HOUSEHOLD DISCARDS 10.5 OUNCES OF ORANGE PEEL A WEEK. AN AMERICAN HOME THROWS OUT 2 OUNCES OF ORANGE-JUICE PACKAGING.

There are, however, notable exceptions. More steel is recycled in the United States than any other material. Scrap metal dealers and steel minimills, not government mandates, drive this profitable recycling.

Aluminum cans fetch $900 a ton on the open market, and more than half of empty cans are recycled; the first major aluminum recycling plants opened in 1904. The reason is simple: It takes only 5 percent as much electricity to produce aluminum from old beverage cans as it does from bauxite ore. And electricity is the major cost in making aluminum. "Aluminum recycling exists today as a viable industry not because the aluminum industry is interested in saving landfill space, but because it has had a variety of economic motivations to recycle aluminum," write Jennifer Gitlitz and Paul Relis in a report summarizing a 1988 California recycling conference.

After 10 years of practice, Santa Monicans recycle 12 percent of their waste. State law requires 25-percent recycling by 1995.

Once states make people recycle materials for which the cost of recycling is greater than the recovered value, officials have to figure out who will pay for the difference. Certainly, Dick Pence doesn't plan to absorb the total cost of complying with Ohio's mandate. If he had to, he'd go out of business. Improving the economics of recycling, to would-be materials planners, requires more new laws and more regulations.

In some cases, the laws seek to create bigger markets for all the near-worthless stuff collected. Old newspapers—which make up about 7 percent of a typical city's solid-waste stream—are a particular problem. They would be cheaper to dump. But to build a resale market, California, Connecticut, Maryland, Missouri, and Wisconsin have passed laws requiring publishers to increase their use of recycled newsprint. Similar laws have been proposed in Illinois, New Jersey, and New York.

Beginning January 1, 1994, the District of Columbia will require anyone who distributes within the district a publication with a circulation of more than 30,000 or who sells more than 500 tons or $100,000 of paper a year to use only recycled paper. Only if the company can prove that using recycled paper would increase its paper costs more than 10 percent over virgin stock can it apply for an exemption. In deeming a 10-percent higher price "competitive" with virgin paper, "They don't understand that huge newspaper deals are made on the basis of a fraction of a percent," says Jack Schafer, editor of the weekly *City Paper,* which has a circulation of 89,000. The penalty for law breaking: a 15-percent "recycling surcharge" over the price of the illegal paper.

The law also specifies just how much recycled material different kinds of paper must contain: 50 percent for high-grade printing and writing paper; 40 percent for newsprint; 5 percent for facial tissues; 20 percent for toilet paper; 30 percent for paper napkins; 40 percent for paper towels; even 40 percent for doilies. In many cases, the recycled material must be "post-consumer," meaning that reusing factory scrap doesn't count.

The ordinance's content requirements "will stifle rather than encourage recycling," says Carol Melamed, director of government affairs and associate counsel for *The Washington Post.* The reason lies in the technical and economic limits of paper making. The mills that can produce recycled paper with 40-percent old newspaper stock are mills that were built originally to make recycled paper. But more and more virgin-paper mills want to get into the recycled-paper business. Rather than build an entirely new plant, at a cost of some $400 million, they add a deinking line, which costs $30 million to $50 million; this retrofitting lets them make paper with between 15 percent and 25 percent recycled content. That may not meet D.C.'s lofty goals, but its impact on the waste stream is significant.

Before the law passed, the Bear Island mill in Virginia—which produces paper for the *Post, The Washington Times,* and other local newspapers—had plans to add a deinking line that would have absorbed 60,000 tons of old newsprint a year. But the recycled paper produced at Bear Island would have contained only 20 percent recycled content. Since the D.C. ordinance would wipe out the market for its recycled paper, the mill has indefinitely postponed adding the new capacity.

Both content mandates and product bans can become vehicles for favoring some corporations or industries over others. Diaper services have lobbied heavily for bans on disposables. And paper interests have had some notable successes in their decades-long struggle to beat out plastic—McDonald's switch, for instance, and a Maine law requiring retailers to use paper bags unless the customer requests a plastic bag. "Within a week

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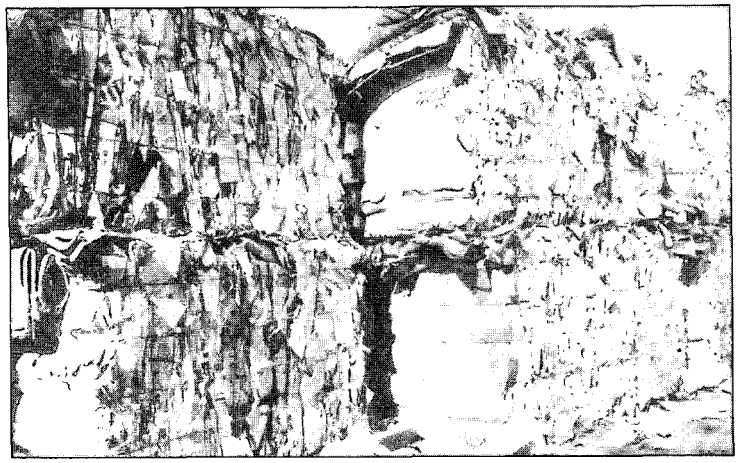


Baling 900 pounds of corrugated cardboard costs Pence Refuse Service $25—half the price buyers will pay for the stuff.

of passage of that law, virtually all the orders for retail-store plastic bags were canceled if they were active, and if they were under consideration, they were rejected," says George A. Makrauer, president and chief executive of Amko Plastics Inc., a bag manufacturer.

Oddly enough, one way for plastics makers to fight back is to support content requirements like D.C.'s. With their emphasis on "post-consumer" content, such requirements raise paper costs. They also strip the "recycled" label from paper that contains factory scrap. Like orange-juice makers selling peels, both paper and plastic makers reuse their wastes—usually by putting them back through the production process. Paper manufacturers have long touted such paper as "recycled," while plastic makers haven't capitalized on the label.

Even within a single industry, bans and mandates get tangled up with corporate opportunism. Conservatree Paper Co., a distributor of post-consumer recycled paper, is a prominent lobbyist for laws that would mandate recycled content and forbid using the term "recycled" to describe paper made with factory scrap. Laws like D.C.'s increase the market for the paper Conservatree distributes. Mandates that lead paper manufacturers to invest in more recycling capacity should increase Conservatree's supplies—and the competition for its business—and lower its costs.

Although the company maintains its innocence—"once the E.P.A. or Congress adopts our proposal, we will no longer have a corner on the market of selling honest-to-goodness recycled paper"—it's hard to believe that it doesn't recognize the advantages of having already established a beachhead in the market. None of this is to say that Conservatree's managers aren't motivated by a zeal for recycling, only that they also stand to gain financially by seeing their ideas made law.

Similarly, paper companies that invest in deinking plants and other recycling facilities develop a vested interest in recycled paper. Despite a virgin-paper glut, Champion International, for instance, is pouring some $80 million into new plant capacity—to make recycled paper. Behind this curious investment: the company's expectation of more laws mandating recycled paper content and recycled-paper use. If it guesses right, Champion will have a jump on the competition. If the mandate mania fades, we may find Champion lobbying for new laws to protect its investment.

The most grandiose plans to regulate materials involve something called "advance disposal fees." Although these fees would require central planning on a scale unknown in this country since World War II, their proponents speak the language of markets, and some of them probably believe their own rhetoric.

The idea behind ADFs is that garbage represents a market failure. Manufacturers don't consider the costs of disposal when they make products. In theory, then, the government could charge manufacturers ADFs that would take into account such factors as: the actual collection and disposal costs of each product type or material; the actual collection and disposal costs in each different jurisdiction where a product is thrown away; current recycling rates; the actual length of product use per household; the actual consumption and disposal path of each product by household; recycling and other behavior in response to new charges, which would change the cost picture over time. One ADF scheme envisions using bar-coded information on each product to create a national database that would be used to regulate charges.

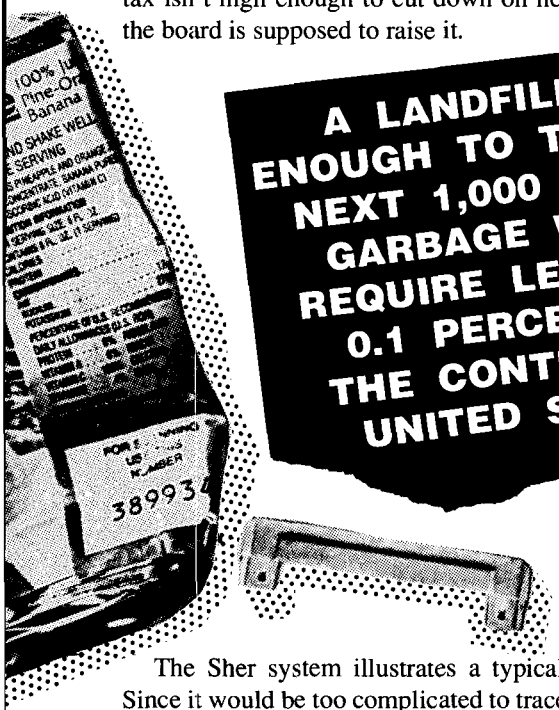
So far, such an elaborate system has yet to become a bill, much less a law. But more-stylized ADFs have been enacted. In late 1992, Florida will begin imposing fees on packaging materials that aren't recycled at a 50-percent rate. Rhode Island has introduced ADFs on items, such as tires and motor oil, that are difficult to dispose of. And in New Jersey, the governor's Solid Waste Task Force has recommended a pre-disposal fee to be assessed on manufacturers when they use virgin materials.

California Assemblyman Byron Sher has introduced a bill to tax materials used for packaging and nondurable goods unless their scrap values cover recycling costs. The bill draws its *raison d'être* from the 1989 law—also sponsored by Sher—that created the mandatory waste-reduction targets: "The costs of implementing the Act to local government, waste haulers and others are significant and should be borne by generators and disposers of solid waste."

Under the Sher bill, the California Integrated Waste Management Board would levy "recycling incentive fees" equal to

SOLID WASTE MANAGEMENT, CITY OF SANTA MONICA, CA

at least the difference between the scrap value of an item and the average cost of collection and processing it for recycling, plus a "reasonable return" to the companies that do the work. Suppose it costs an average of $100 a ton to run curbside recycling for newspapers, and the newspapers fetch $10 a ton on the resale market. Allowing for a 5-percent markup on the $90 net cost, the advance disposal fee would be $94.50 a ton—or 2.4 cents for a half-pound *Los Angeles Times*. If that tax isn't high enough to cut down on newspaper production, the board is supposed to raise it.



A LANDFILL BIG ENOUGH TO TAKE THE NEXT 1,000 YEARS' GARBAGE WOULD REQUIRE LESS THAN 0.1 PERCENT OF THE CONTINENTAL UNITED STATES.

The Sher system illustrates a typical planning dilemma. Since it would be too complicated to trace the actual recycling costs of individual items, it uses state averages. Without this simplification, the program would be impossible to operate. With it, however, the price signals are completely distorted. Consumers who live in places where recycling is cheap will pay too much for products. Those who live in places where recycling is expensive will pay too little. And the program leaves plenty of discretion altogether outside the market: A state board decides when the fees are high enough and gets to compute the reasonable rate of return due recyclers.

The Sher bill, like many such schemes, represents not a "true cost" system but an elaborate way to subsidize recycling. It seeks to penalize materials not because they actually harm the environment (by, for instance, releasing toxic gases) but because they can't be affordably recycled. The bill's backers speak the language of economics, but they don't understand it.

The basic problem with such schemes is that they start from a false premise. There is no market failure in solid waste. The economist will find no externalities in your garbage can, unless government subsidies put them there. But that doesn't mean there are no problems.

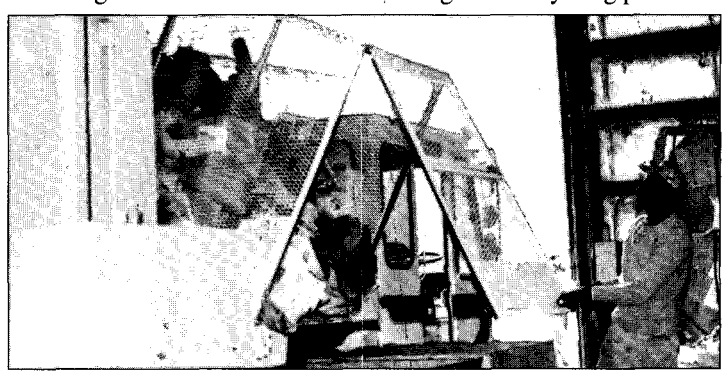
Take landfills. They really are closing. In fact, more than half the 18,500 landfills that existed in 1979 have shut down in the past 10 years. This is nothing new. Landfills have always had limited lifespans, usually about 10 years. What *is* new is that the old landfills aren't being replaced. The number of new landfills built from 1985 to 1990 was almost 50 percent lower than during the previous five years, the lowest level in 20 years. New landfills are much larger than old ones, but not large enough to make up the difference. As a result, it's hard to find space for trash. In a mini-version of the garbage barge, Santa Monica's trash haulers drive around in their trucks, calling each other on cellular phones to find out who's open to take their loads.

The cause of the landfill shortage isn't that we're "running out of space." A. Clark Wiseman, in a Resources for the Future study, calculates that "*all* municipal solid waste for the next thousand years would require [a landfill 120 feet deep in] a square area having 44-mile length sides." In other words, a hypothetical landfill that could accommodate the next 1,000 years of U.S. waste would take up less than 0.1 percent of the continental United States.

What's missing isn't land—it's prices. Cities used to be able to shove landfills anywhere they wanted. When surrounding communities rebelled, using lawsuits and environmental regulations to drag out the siting process, solid-waste managers griped about the NIMBY (not-in-my-backyard) syndrome and environmentalists declared landfills (and incinerators) remnants of a passing age of waste.

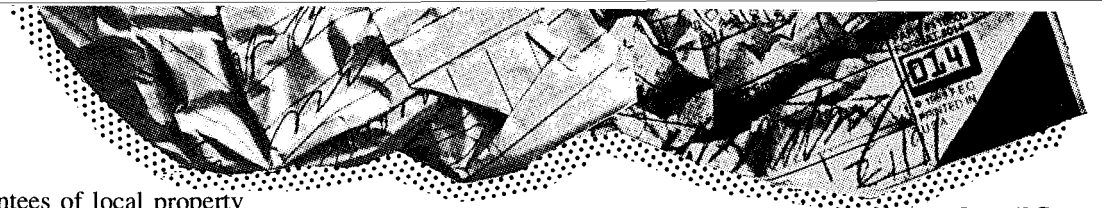
But entrepreneurs have found a way around NIMBY. It's called YIMBY-FAP: Yes, in my backyard—for a price. This new approach has two components. First, the landfill developer picks up the full costs of protecting the surrounding community from environmental harm. This includes such technical components as double landfill liners and leachate collection systems (to protect groundwater from the gop produced by decaying garbage) and methane-removal systems (to keep gas from building up underground). It also includes inspections, record-keeping, a detailed closing plan, and various monitoring systems.

Robert T. Glebs, a former city waste manager who now runs a business siting landfills, estimates that such a state-of-the-art landfill would cost about $55 million to build in the Midwest—including such additional costs as running local recycling pro-



MCO Re-Cycling picks up recyclables and regular trash with the same truck. "There's not a lot there, and we're getting darn near all of it," owner Bernard Mrugula says.

MCO RECYCLING, FREEPORT, IL



grams and offering financial guarantees of local property values. Adding in a 25-percent margin—profit for private landfills, replacement cost for public ones—the tipping fee to cover such a landfill comes to $25.62 a ton, way, way below the cost of recycling programs.

The second component of a YIMBY-FAP landfill is to share the wealth—to pay the surrounding community. Charles County, Virginia, for instance, collects $5.00 for each ton of garbage dumped in the landfill Chambers Development Co. runs in the rural county. Chambers also picks up local garbage for free. "We're good capitalists; we realized there was money in garbage," county Administrator Fred Darden told *Forbes*. Thanks to the landfill, the county collects more than $1 million a year, enough to cut property taxes by 20 percent while spending more on local schools. Such "host community fees" make landfill siting a win-win proposition.

They also bring the full cost of landfills into the marketplace by making the landfill operator pay not only to install safety measures but to compensate the people most directly affected by the landfill. The next step to internalizing garbage costs is to bring landfill costs back to the person with the bag full of trash.

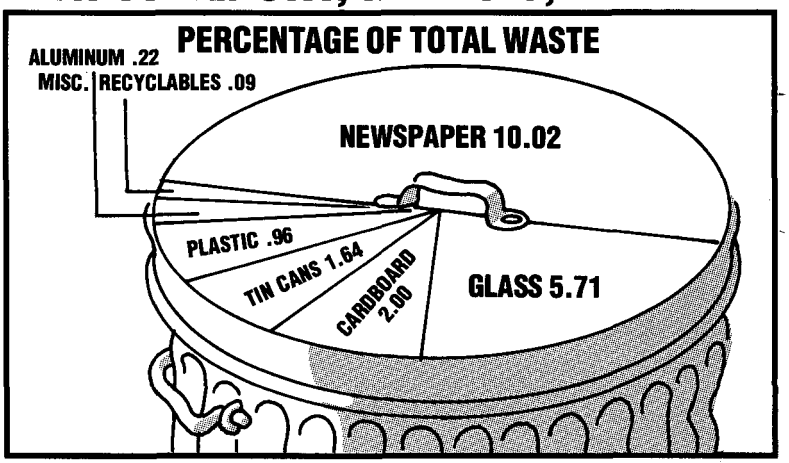
That means getting rid of free garbage service—the subsidy at the root of the "solid waste crisis." And it probably means charging more to people who generate more trash.

Cities like to give people free garbage service. Suggesting that Los Angeles might charge for trash, political wisdom has it, brought down Mayor Sam Yorty. In a 1990 survey of 246 U.S. cities—ranging from 5,000 to 1.75 million in population—more than one-third didn't charge any fees for garbage collection. Of those that did, about half charged flat rates, regardless of how much trash residents generated.

Now it is *possible* that a private trash collector paying full freight to a YIMBY-FAP landfill might charge all customers a flat fee for garbage pickup. But it isn't very likely. What seems more realistic is a system something like the one MCO Re-Cycling devised for Freeport, Illinois. For $5.75 a month, residents get weekly pickup of one 30-gallon bag of garbage and unlimited recyclables. For 60 cents, they can buy a sticker good for another bag of trash; the average household uses about one sticker a month. Customers have an incentive to reduce, reuse, and recycle, but they also have a choice. And, in contrast to ADF schemes, this system allows prices to be set by people who actually know what the costs of garbage are.

Unlike most city-run recycling programs, MCO uses a single truck for both garbage and recyclables, picking both up at the same time. That saves on the extra trips that make recycling costs prohibitive most places. Customers don't have to hang on to their bottles and cans forever and don't have to sort everything into a million different bins. "All we ask is that the stuff be clean," says MCO owner Bernard Mrugula. Though it's too early to be sure (the program is less than a year old, and trash composition swings wildly from month to month), the percentage of trash that gets recycled seems to be on an upward trend—hitting 23.7 percent in April.

WHAT FREEPORT, ILLINOIS, RECYCLES



ALL RECYCLABLES (AS % OF TOTAL COLLECTED) 20.64
SOURCE: MCO RE-CYCLING

Mrugula clearly hates to see any good stuff go to waste; he sounds genuinely stricken at the thought of the television sets they had to dump last "spring cleaning" without stripping them of valuable metal. He is a resource recovery enthusiast, but he thinks recycling promoters are often unrealistic about how much people have to recycle. "There's not a lot there," he says, "and we're getting darn near all of it."

Mrugula understands what the materials czars and a lot of city managers miss: Recycling is simply another way to get rid of trash. To make it work, you have to make it easy on the customer and treat it as part of regular garbage pickup. Efficiency, not suffering, not a war on consumption, is the name of the game.

Looking through a nation's garbage, you can tell much about its people—how much they read, whether they're too poor to own refrigerators or rich enough to buy microwave ovens, whether they prefer gardening or fixing their cars. You can figure out how much their time is worth and whether they have a lot of kids. But it's hard, very hard, to see how everything fits together—how a Uneeda cracker box, resealable and lined with wax paper, could lead to national brands and mass marketing, how disposable diapers could make small-scale day care more feasible, how floppy disks could produce more paper waste.

Facing a solid-waste crisis, we have a choice. We can manage our garbage, getting rid of the barriers that keep people from seeing what their habits cost. Or we can assume omniscience and, thinking we know everything about the intricate connections between people and materials, we can try to manipulate both. If we choose the latter course, we will run into the old planner's problem. We just won't know enough to do the job. Garbage in, garbage out.

Virginia I. Postrel is editor of REASON. *Lynn Scarlett is vice president for research of the Reason Foundation and the author of several studies on solid-waste issues.*

ARTHUR MATSON

SOMETHING'S EXCLUSIONARY NOT KOSHER RULE ABOUT DAVIS-BACON.

By David Bernstein

When USS-Posco Industries decided to renovate its steel plant in Contra Costa County, California, in 1987, it did what any rational business would do: It hired the company that submitted the lowest bid, a joint venture whose main partner was BE&K Construction of Birmingham, Alabama.

BE&K's bid was $400 million, $50 million lower than that of its closest competitor. Because of the massive size of the project, workers were brought in from all over the country. Although BE&K was giving work to hundreds of people, the local building unions resented the nonunion contractor. With the help of the AFL-CIO, the local unions launched a huge public-relations campaign against the project. They alleged, first of all, that the deaths of two workers on the project were due to the use of untrained, nonunion laborers. (The company replied that the union's charge was based on pure speculation.)

More important, the unions played on local resentment of the poor, often unskilled laborers who had traveled across the country to work on the project. These workers brought their families, causing temporary strains in the local social-services system. They also created unsightly conditions: Some of them lived in their cars until they could find more permanent quarters, while others set up house in trailers and cheap hotels. "It was kind of like *The Grapes of Wrath* of the construction industry," one union official told *The New York Times*.

Building on resentment of the transient workers, the unions convinced the county Board of Supervisors to pass a law requiring all contractors working on large private building projects to pay the "prevailing wage"—otherwise known as the union wage. This law takes away any economic incentive for local companies to use nonunion labor and discourages the use of unskilled workers, who are not recognized in union pay scales. Similar laws have since been passed in several other jurisdictions in Northern California, and they may be imitated elsewhere.

The origins of the Contra Costa County law are startlingly similar to the origins of the granddaddy of all prevailing-wage laws, the Davis-Bacon Act. Davis-Bacon, which was passed in 1931, requires that all federal contractors with contracts of over $2,000 pay their workers the prevailing wage.

The bill that eventually became Davis-Bacon was originally submitted to Congress in 1927 by Rep. Robert Bacon of Long Island, New York. Bacon's action was spurred by a construction project in his district. An out-of-state, nonunion contractor (coincidentally, also from Alabama) had won a bid to build a Veteran's Bureau hospital. According to Bacon, the workers "were herded onto this job, they were housed in shacks, they were paid a very low wage," all of which caused "the neighboring community [to be] very upset."

One added factor that might have upset Bacon was that all of the workers were black. In response to goading by a fellow congressman, Bacon denied any antiblack animus, declaring that his position would be the same "if you should bring in a lot of Mexican laborers or if you brought in any nonunion laborers from any other State." (Blacks and Mexicans were not allowed into most construction unions.)

Bacon submitted various versions of his bill over several congressional terms, each time failing to win passage. But as the Depression lingered, the federal government launched a massive public-works project that soon accounted for half of all American construction. Members of Congress began to see Davis-Bacon as a way to protect local, white construction workers from the competition of job-hungry blacks, who suffered the most in the terrible economic situation.

The racist intent of the statute is clear from public remarks made by individual members. Rep. John J. Cochran of Missouri, supporting Davis-Bacon, said: "I have received numerous complaints in recent months about southern contractors employing low-paid colored mechanics getting work and bringing the employees from the South." Rep. Clayton Allgood, in the course of floor debate on the Davis-Bacon bill, added that the measure would discourage the use of black labor, which was "in competition with white labor throughout the country."

Other members were more circumspect in their references to black labor. They railed against "cheap labor," "cheap, imported labor," men "lured from distant places to work on this new hospital," "transient labor," and "unattached migratory workmen." But American Federation of Labor President William Green, testifying on the Davis-Bacon bill before the Senate Committee on Manufactures, made clear that a major goal was the elimination of "colored labor."

Because of Davis-Bacon, almost all federal construction jobs went to whites. Discrimination was rampant throughout the construction industry—on the part of both labor unions and management. In such a labor market, the only advantage blacks had was their willingness to work for less money than whites. By setting a minimum wage, Davis-Bacon prohibited black workers from exercising that advantage. Instead, a white contractor had the choice of hiring either white or black laborers for the same price. Given white workers' general hostility to black coworkers and the white contractors' own discriminatory preferences, the contractors generally chose to hire exclusively white labor.

As of the late 1950s, union discrimination limited blacks in the construction industry almost entirely to unskilled jobs. For example, in 1950, only 1 percent of the electricians and 3.2 percent of the carpenters in the United States were black. And as late as 1961, blacks were still barred from the unions of the electrical workers, operating engineers, plumbers, plasterers, and sheet-metal workers, among others. In one shocking incident, because the local union refused membership to nonwhites, blacks weren't allowed to work on construction of the Rayburn Office Building for the House of Representatives.

To make matters even worse, the only unskilled workers that Davis-Bacon regulations recognized were those in government-approved union apprentice programs. Blacks were very occasionally allowed into labor unions of unskilled workers but almost never into union-sponsored apprenticeship programs. In 1950, blacks represented from 0.6 percent to 4.1 percent of apprentices in various skilled trades.

Davis-Bacon's restrictions on unskilled workers not only limited the employment opportunities of unskilled blacks but also kept them from acquiring skills. Because of discrimination in union and public vocational-school training programs, the only way blacks could become skilled workers was to accept unskilled employment and learn on the job. As of 1940, blacks composed 19 percent of the 435,000 unskilled "construction laborers" in the country and 45 percent of the 87,060 in the South. Thanks to Davis-Bacon, these workers were excluded from federal building projects.

Even federal efforts to ensure compliance with the 1964 Civil Rights Act did not shield blacks from Davis-Bacon's discriminatory effects. A 1968 Equal Employment Opportunity Commission study found that "the pattern of minority employment is better for each minority group among employers who do not do contract work for the government [and are therefore not subject to Davis-Bacon] than it is among prime contractors who have agreed to nondiscrimination clauses in their contracts with the federal government."

By 1970, almost all blacks working in construction were still filling low-paying, unskilled jobs. Yet, because of Davis-Bacon, federal contractors were still forbidden to pay workers wages suitable for unskilled labor. Even as the Labor Depart-

BEFORE 1964, MOST CONSTRUCTION UNIONS BARRED BLACKS. DAVIS-BACON SUPPORTERS SAID THEY WANTED THE LAW TO LIMIT "COLORED LABOR."

ment was launching its Philadelphia Plan and other affirmative-action schemes to encourage the use of skilled minority workers in federal construction projects, its Davis-Bacon rules were effectively keeping the vast majority of unskilled black workers out of such projects, where they could have learned skills on the job.

The Labor Department continued to recognize unskilled workers only when they participated in government-approved apprenticeship programs. Otherwise, they had to be considered, for pay purposes, journeymen of the trade to which they were apprenticed. An employee's daily pay had to be based on the wage for the highest level of skill at which he did any work at all. So if a laborer hammered one nail, he automatically became a carpenter and had to be paid as such. Given those pay requirements, contractors would, of course, hire a skilled construction worker—almost always white—instead of an unskilled helper—often black.

Contractors who have tried to help black workers break into the construction industry have found Davis-Bacon a huge obstacle. Ralph Jones is the president of a company that manages housing projects for the Department of Housing and Urban Development. Last year, his company took over a pair of very dilapidated public housing buildings in black Tulsa, Oklahoma. Jones wanted to hire unemployed residents at $5.00 an hour to help rip out everything that needed to be ripped out before he could bring in skilled craftsmen to fix things up. But he found that he would have to pay them $14 an hour because of Davis-Bacon, and that was the end of that.

Elzie Higgibottom, a successful builder of federally subsidized low-income housing in Chicago, is deeply committed to helping build the economic base of Chicago's poor neighborhoods. But, under Davis-Bacon, Higgibottom complained to *The Washington Monthly*, "I've got to start out a guy at $16 an hour to find out if he knows how to dig a hole. I can't do that." So much for giving the unemployed a chance.

Studies by the U.S. comptroller general, the American Enterprise Institute, and economists Walter Williams and William Keyes, among others, have confirmed what Jones and Higgibottom already know from experience: Repealing Davis-Bacon would increase black participation in the construction industry. But the NAACP and other major civil rights groups, allied with unions on many issues, support Davis-Bacon and put their faith in civil-rights laws and the good will of unions.

Yet, even assuming that craft unions have changed their discriminatory ways, it will take decades for black membership to match the black share of the working population. U.S. Census data from 1980 show that blacks were significantly underrepresented in many construction crafts. Let us make the heroic—and obviously incorrect—assumption that in 1975 all craft unions not only stopped discriminating against blacks but adopted hiring quotas that reflected the percentage of blacks in the work force. Because unions follow strict seniority rules, blacks would have to wait for the retirement of all white workers employed prior to 1975 before they could achieve equal status in the unions. In other words, they'd have to wait until about 2025.

Meanwhile, blacks are still disproportionately represented as unskilled laborers in the construction industry; they are almost twice as likely as whites to hold such positions. Partly in response to this situation, the Labor Department adopted new regulations in 1982 to let Davis-Bacon contractors use unskilled helpers. After much litigation with the construction unions, and some modifications, the new rules went into effect on February 4, 1991. They promised unskilled blacks a greater opportunity to break into the construction industry.

But that wasn't the end of the story. In late March, the unions convinced a majority of the House and Senate to sneak into an emergency appropriations bill a provision prohibiting the Labor Department from spending money to put the new regulations into effect. The leading Democratic sponsors of the Civil Rights Act of 1991, showing more commitment to their union supporters than to the principle of equal economic opportunity, all voted to sustain the provision against a challenge by Sen. Don Nickles (R-Okla.). President Bush, unfortunately, signed the amended appropriations bill in April.

If the new regulations are ever implemented, they will be a boon to black and other minority workers. The rules do not go far enough, however. First, they restrict the use of helpers to areas where their use "prevails," a legally mandated but harmful qualification. Heavily unionized cities where the use of helpers doesn't "prevail" are home to millions of unskilled minority youths who will continue to be frozen out of Davis-Bacon projects.

Second, the new rules set a maximum ratio of two helpers to every three journeymen employed by a contractor. In nonunion construction, about one-third of all workers are typically helpers. But the ratio varies with the project. In small-scale construction, where highly skilled labor isn't critical, the ratio must sometimes rise above the maximum 2 to 3. So the new rule (if upheld and implemented) will still at times prove a barrier. Public housing residents who are managing their own buildings, for instance, will still find it difficult to hire unskilled or semiskilled tenants to renovate their buildings.

Indeed, while the NAACP continues to support Davis-Bacon, community activists in poor areas find the law a primary

obstacle to achieving their two main goals—increasing employment and improving housing. Mary Nelson, head of Bethel New Life, a Chicago organization that rehabilitates low-income housing, told Stephen Chapman of the *Chicago Tribune* that her organization's task would be "a thousand times easier without Davis-Bacon."

And Marshall England, a Bronx activist who encourages local black youths to become entrepreneurs, finds his housing ideas utterly thwarted by the law. England would like to see local people "homestead" dilapidated buildings that have been abandoned and are now owned by New York City. He envisions a "sweat equity" program in which young residents of the area would repair the buildings and eventually own homes in them.

But despite the billions wasted by HUD on housing projects that become uninhabitable before they are completed, and despite hundreds of millions of dollars spent by the city and the state on providing housing for New York's indigents, England cannot get any federal, state, or local funds for his project unless he pays the union wages required by Davis-Bacon and its state and local equivalents. England calls Davis-Bacon "the biggest inhibitor to good housing in poor areas."

What is really needed is a legal challenge to Davis-Bacon that will wipe the law off the books once and for all. The best hope for such a challenge is an antidiscrimination suit based on the statute's intent. In the 1977 case *Village of Arlington Heights v. Metropolitan Housing Development Corporation*, the Supreme Court recognized that a statute may have a discriminatory purpose that is neither "express nor appear[s] on the face of the statute." In that same case, the Court said that, "where there is proof that a discriminatory purpose has been a motivating factor," it will strictly scrutinize the law, a process few laws survive. Given the manifold evidence that Davis-Bacon was passed with discriminatory intent, the *Arlington Heights* test should be satisfied easily.

One problem with such a challenge is that the law was passed 60 years ago, making it difficult to impute discriminatory intent to today's Congress. But the law has not been substantially modified since 1935, and it still has a discriminatory impact. As a Heartland Institute study concludes, "Under the currently applicable doctrines of the Supreme Court, Davis-Bacon is unconstitutional."

Another way to launch a legal attack on Davis-Bacon is to argue that repealing the law would be a race-neutral way to encourage minority participation in government construction contracts. Ralph C. Thomas III, executive director of the National Association of Minority Contractors, says Davis-Bacon hurts minority contractors in several ways. Most minority-owned construction businesses are small and nonunion, so their manpower structures don't follow Davis-Bacon requirements, which are based on union structures. They also cannot afford the staff that would be required to meet Davis-Bacon's cumbersome record-keeping rules.

Race-conscious construction set-asides—the usual way of making room for minorities on government projects—have been among the most controversial issues to come before the Supreme Court. In various decisions, both upholding and striking down such set-asides, the Court has said repeatedly that race-neutral remedies are constitutionally preferable to race-conscious remedies. Most recently, the Court made this point in the 1989 case *City of Richmond v. Croson*. The U.S. Court of Appeals for the Ninth Circuit, in an opinion written by Judge Alex Kozinski, has gone even further, holding that race-neutral remedies must be tried before race-conscious remedies are resorted to.

CONTRACTORS WHO TRY TO HELP BLACK WORKERS BREAK INTO THE CONSTRUCTION INDUSTRY FIND THAT DAVIS-BACON IS A HUGE OBSTACLE.

Based on Kozinski's version of the "least restrictive means" test, Congress must try eliminating Davis-Bacon as a race-neutral way to promote minority contracts. Only if repealing Davis-Bacon fails to improve the lot of black contractors can Congress adopt a set-aside program. An attack on Davis-Bacon could come from a white plaintiff challenging construction set-asides. Or a black plaintiff could argue that as long as the set-aside law stands, all racially neutral remedies must also be in place to minimize the need for quotas and the stigma they impose.

If Davis-Bacon is overturned, however, about 30 states and many localities will retain prevailing-wage laws, even though those laws have the same pernicious effects on minority workers and businesses as Davis-Bacon. Some of those laws could, of course, be subject to the same legal challenges as Davis-Bacon. Even without such a challenge, these statutes are becoming rarer. Constrained by tight budgets and lobbied by the fast-growing nonunion construction sector and local minority activists, a dozen states have repealed their prevailing-wage laws. The decline of construction unions' economic and political power explains their desperate bid to extend prevailing-wage laws to private construction in jurisdictions where unions still have clout. Legal challenges have been filed everywhere such legislation has passed.

In the long run, whatever the outcome of the court challenges, few places are likely to extend prevailing-wage requirements to the private sector. While these laws help unionized construction workers, they ultimately drive away businesses that employ other local residents. Meanwhile, the existence of such rules is a testament to the continued willingness of unions to play on prejudices against minorities and the poor in order to benefit their members. ■

David Bernstein is a recent graduate of Yale Law School.

ARTHUR MATSON

Supporters of free trade in this country spent the last decade on the defensive. The large merchandise trade deficit, as well as Japanese gains at the expense of highly visible U.S. industries, gave rise to intense pressure for new protectionist measures. Under these adverse conditions, advocates of open markets adopted a policy of tactical retreat, making measured concessions in the hopes of staving off a rout.

Now, however, free-traders are on the offensive with two major initiatives: 1) multilateral talks to liberalize global trade under the Uruguay Round of General Agreement on Tariffs and Trade (GATT) negotiations; and 2) a proposed North American free-trade agreement involving the United States, Canada, and Mexico. Though these are separate and distinct sets of negotiations, their fates became linked in the recent congressional battle over extending fast-track authority.

Fast-track authority allows the president to negotiate trade agreements that are then subject to an up-or-down vote in Congress (no congressional amendments to the agreement are allowed). Fast track is essential if these negotiations are to proceed, since no country will

bargain seriously with us if the resulting agreement can be picked apart on Capitol Hill. Opposition to extension, spearheaded by organized labor, was fierce; nevertheless, heavy White House pressure enabled both the Uruguay Round and the North American FTA to clear this preliminary hurdle. Whether agreements can actually be reached, and whether these agreements can get through Congress, remain highly uncertain.

The current free-trade strategy suffers from more than these practical difficulties, however. The strategy is flawed in its basic conception. Whether unwittingly or through an excess of cleverness, supporters of free trade have adopted the same basic assumptions as those that underlie the protectionist position. As a result, these supporters are unlikely to succeed in any significant opening of markets. Furthermore, this strategy may actually end up making matters worse.

The case for free trade, when made properly, doesn't depend on whether other countries adopt like policies. In other words, it pays for us to maintain open markets for foreign imports and investment even when our trading partners refuse to reciprocate. Similarly, the government should allow Americans to enjoy cheap imports even when their low price is due to foreign government subsidies. In sum, free trade enriches and invigorates our economy regardless of whether the rest of the world engages in "fair" trade, however that term is defined.

This unilateralist position, however, isn't advocated by supporters of free trade, at least not within the public-policy establishment. Instead, the official free-trade position—as evidenced by both the Uruguay Round and the North American FTA—is to negotiate with other countries for reciprocal reductions in trade-impeding and trade-distorting measures. The underlying assumption here is that free trade is worthwhile only if everybody does it. More specifically, these negotiations proceed on the premise that open-import markets are the price a country must pay to obtain freer access for its exports.

Thus, in the terminology of GATT, trade liberalization is expressly characterized as a "concession," as if it's contrary to national interest, has no intrinsic merit, and can only be justified by reciprocal concessions. Likewise, free-trade agreements are based on a one-for-one swap of market access; it's presumed that a country has no interest in removing its trade barriers unless another country agrees to reciprocate. In this regard, it's telling that the metaphor of disarmament is now commonly used in discussing trade negotiations. Carla Hills, the U.S. trade representative and the leading official voice of free trade, has repeatedly pledged that she won't engage in "unilateral disarmament" during trade talks.

This "imports bad, exports good" mind-set is pure mercantilism and is flatly incompatible with a proper understanding of international trade. Contrary to mercantilist thinking, the biggest gains from trade occur on the import side, since through open markets we are able to buy cheaper and better products than we could make for ourselves. Exports, on the other hand, are desirable primarily because they allow us to pay for more imports. The reciprocity-based approach now adopted by the free-trade side rests on economic assumptions inimical to those who truly support open markets and free trade.

Of course, it's always possible that a policy can work well in practice even when it sounds rotten in theory. Indeed, the reciprocity approach to free trade has a plausible argument to support it: Unilateral free trade is desirable in and of itself, to be sure, but it's just as clear that multilateral free trade is preferable, not only for the world as a whole but also for our own country. A unilateral and unconditional declaration of open markets on our part, though, would rob us of the leverage we need to convince other countries to drop their mercantilist policies. So let's reduce our own trade barriers, but let's do so in a way that persuades other countries to do likewise. Maybe this approach relies on mercantilist assumptions, but if you're going to try to persuade mercantilist countries to change their ways you have to speak their language.

This argument, though plausible, won't bear up under scrutiny. To understand why, it's necessary to look more closely at the background of the current free-trade initiatives.

GATT, since its founding in 1947, has served as the basic institutional framework for the postwar era's relatively open world trading system (relative, that is, to the 1930s and 1940s). GATT imposes limits on what member countries can do to impede or distort trade and provides a mechanism for negotiating further reductions in trade restrictions. The key to this mechanism is the "most-favored nation" principle that says any member country must extend "concessions" to all GATT members on an equal basis.

GATT's primary mission has been to reduce tariffs on manufactured goods, and in that narrow task it has been highly successful. During the course of seven negotiating rounds, average duty rates have dropped from over 40 percent when GATT was founded to around 5 percent today. Unfortunately, loopholes in GATT's coverage and the rise of nontariff trade barriers have severely undermined its effectiveness. GATT is now commonly denigrated as the "General Agreement to Talk and Talk."

From the beginning, GATT made an exception for trade in agricultural products. This was primarily at the insistence of the United States, which needed high tariffs and import quotas to maintain its system of farm price supports. And starting in the 1960s, international trade in textiles has been subject to an increasingly complex web of quantitative restrictions, first under the Short Term Arrangement, then the Long Term Arrangement, and finally the Multifiber Agreement (currently in its fourth incarnation and about to be extended for a fifth). In these areas, then, the free-trade principle has been abandoned entirely in favor of "managed trade" alternatives.

In addition to opening up these explicit loopholes, countries have also managed to outflank GATT. In other words, they have replaced old-fashioned tariffs and quotas with new, more subtle means of protectionism. Beginning in the 1970s, the United States and the European Community began resorting to "vol-

GATT IS COMMONLY DENIGRATED AS THE "GENERAL AGREEMENT TO TALK AND TALK."

untary export restraints" to limit import competition. Under these arrangements, foreign exporters "agree" to place quantitative limits on their shipments to the country in question. Since these restraints are allegedly voluntary, they fall outside GATT strictures against government-imposed import quotas. The United States has used voluntary export restraints to control imports of color televisions, automobiles, steel products, and machine tools.

Meanwhile, the 1980s saw the rise of "unfair trade" laws as a protectionist device. The most prominent of these laws is the antidumping law, in which the government imposes special duties on companies that it says sell for less in the export market than they do at home. Again, the United States and the E.C. have been the most aggressive users of this law, but proliferation is now well under way; at last count, 28 countries had adopted antidumping laws, including even the Soviet Union. In an ironic twist, other countries are now beginning to turn these laws against U.S. and E.C. producers.

By the mid-1980s, then, the effectiveness and prestige of GATT had fallen to an all-time low. The Reagan administration, rather than allowing GATT to trail off into oblivion, decided to commit the United States to leading a major new negotiating round designed to rejuvenate the GATT system. Thus, under strong American encouragement, an eighth round of talks was formally launched in 1986 at a meeting of GATT members in Punta del Este, Uruguay (hence the "Uruguay Round"). The United States pursued an ambitious negotiating agenda; it put forth proposals to bring agriculture and textiles under multilateral control and to extend GATT coverage to such novel areas as intellectual property rights and international trade in services. The Bush administration continued on this same tack, maintaining that the successful completion of the round was its number-one trade policy priority.

It now appears, however, that the final outcome of the Uruguay Round will fall well short of initial expectations. The round was supposed to conclude in December of last year, but negotiations broke down over the E.C.'s refusal to reduce agricultural export subsidies. Talks have started up again, but because the U.S. fast-track negotiating authority was due to expire at the end of May, everything was put on hold by the battle in Congress over fast-track extension. Even now that fast-track authority has been restored, agriculture is by no means the only subject that remains to be settled; there are 15 separate negotiating areas, and in most of them there are significant, and in some cases huge, differences that must be bridged. Thus, there is every indication that if agreements in these areas can finally be reached, they will contain only modest, incremental reforms, not the sweeping liberalization envisioned earlier in the process.

There is little reason to think that future rounds can do any better. Even if the United States were totally committed to the goal of worldwide free trade—and at present, of course, there are deep political divisions over whether achieving this goal is desirable—it quite simply lacks the clout to bring the other 96 GATT member countries along with it. Economic power is too evenly distributed these days and mercantilist policies are too deeply entrenched. Recall that trade negotiations are now discussed in terms of "disarmament." Try to picture arms-control talks involving 97 countries, and you'll have a fairly good idea of the likelihood of major breakthroughs in GATT.

As a parallel to negotiations in GATT, the Reagan administration also pursued liberalization on a bilateral or regional basis by entering into free-trade agreements, or FTAs. The United States negotiated its first free-trade agreement—with Israel—in 1984, though here foreign-policy rather than economic considerations were primary. In 1988, the United States signed an FTA with Canada, its biggest single trading partner. Here again, the Bush administration is following in its predecessor's footsteps, having announced plans for a North American free-trade zone including Canada and Mexico.

Free-trade agreements offer a workable method for achieving significant liberalization between the signatory countries. Unlike GATT with its 97 members, a meaningful FTA is much easier to negotiate, given that it involves only two or three countries. The U.S.-Canada FTA, for example, provides for the elimination of all tariffs within 10 years. Also included, for the first time ever in a trade agreement, are rules guaranteeing market access in a wide range of service industries. Furthermore, the agreement prohibits most import and export restrictions on energy trade.

Nevertheless, FTAs have serious limitations. First, even under the best conditions they will still leave substantial trade barriers in place. The United States retains the right to bring antidumping and other unfair-trade cases against Canada; U.S. dairy quotas are still intact; the Canadian beer industry continues to receive protection; and the agreement leaves major industries such as trucking, railroads, and shipping uncovered. In any agreement with Mexico, restrictions on foreign investment in Mexico are sure to remain in force. On the U.S. and Canadian sides, there would assuredly be mechanisms to discourage the relocation of labor-intensive manufacturing operations into low-wage Mexico.

Such holdover protectionism isn't the main problem. There simply aren't that many viable FTA partners. Consequently, attempts to push the FTA concept beyond its limited range are likely to lead in one of two directions. First, there is the prospect of watered-down agreements, with perhaps tariff elimination and a few cosmetic changes here and there, but otherwise leaving the status quo comfortably in place. This might be what a U.S.-E.C. free-trade agreement would look like.

The second, more dangerous possibility is that the United States will negotiate FTAs that are in fact managed-trade accords, with market access in various sectors doled out on a quota basis. Such full-scale cartelization of trade would be far worse than the mess we have now, and it's by no means

unthinkable that we could wind up with such agreements, particularly with Japan.

In sum, the reciprocity-based free-trade strategy provides only limited benefits; it tinkers at the margins. Meanwhile, it diverts political energy away from dismantling all the protectionist policies from which our country currently suffers. Worse, it actually reinforces existing trade barriers and even increases the likelihood that politicians will add new ones.

In the first place, trade negotiations strengthen current mercantilist policies by turning them into "bargaining chips." Even the most blatantly indefensible measures are shielded from reform in order to avoid "unilateral disarmament." A perfect example of this can be seen in last year's budget agreement. Congress agreed to cut farm subsidies by roughly $15 billion from projected levels over the next five years. But lawmakers expressly conditioned many of these cuts on achieving a trade agreement that cuts E.C. subsidies. If this condition isn't met, up to $7 billion in subsidies could be reinstated.

The reciprocity approach also increases the chances of additional protectionism. Starting with a policy that conditions improved access to American markets on reciprocal improvements in other countries, it's only a small step to conditioning existing market access on liberalization abroad. Indeed, Washington has already taken this step. Under heavy pressure from the protectionist Congress, both the Reagan and Bush administrations have made frequent use of Section 301 of the trade law and a number of related provisions, all of which authorize retaliation against our trading partners unless they reduce barriers to American exports.

The United States has managed to wring some rather minor concessions out of other countries by means of such threats. On the other hand, in some instances intimidation has failed and the United States has actually instituted new trade barriers as punishment. It is entirely possible one of these disputes could someday blow up into a large-scale trade war. By accepting the principle of reciprocity, free-traders have fallen into a trap in which it becomes extremely difficult to resist ever-more-aggressive applications of that principle.

More generally, the reciprocity-based free-trade strategy helps to frame the whole trade debate in terms that favor the protectionist lobby. The special interests that seek a protectionist bailout rarely admit that they were out-competed by their foreign rivals. Rather, they claim that they are the victims of "unfair competition." "We aren't afraid to face foreign competition," they say. "But it has to be on a level playing field." A policy of trade negotiations lends credence to this ploy by focusing attention on other countries' import barriers and "unfair" practices. Protectionists need only point to the latest U.S. negotiating agenda to make a case that the playing field is indeed unfairly slanted against American companies.

Logically, of course, this argument doesn't wash. Trade barriers abroad have little or no connection to whether U.S. industries can beat out foreign competition in the American market. The Big Three aren't losing out to Honda, Toyota, and Nissan because they are unable to export to Japan. Likewise, "unfair competition" is generally a bogeyman. The death of the U.S. consumer-electronics industry can't be blamed on Japanese "dumping" or industrial policy. Japanese companies dominate the market for the simple reason that they offer high-quality products at reasonable prices. Nothing unfair about that.

Logic, however, isn't what matters here; rhetoric is. Protectionists need some sort of cover to disguise their special-interest pleading. The reciprocity approach to free trade, by ceding to protectionists the "fairness" issue, helps to give them the cover they need.

Advocates of free trade should therefore get off the reciprocity bandwagon. Rather than worrying about the rest of the world, we should urge the unilateral elimination of all U.S. trade restrictions. Such a dramatic shift in policy would not only be best for the American economy generally but would also promote U.S. exports. Moreover, unilateral free trade may actually do more to encourage liberalization abroad than reciprocity ever could.

By opening our markets unconditionally, we would allow American companies to purchase components and materials at the lowest possible prices, thus lowering the companies' costs and making them more competitive in export markets. In addition, when we import more, our trading partners earn more dollars in foreign exchange, thereby allowing them to buy more goods and services from American firms.

TRADE NEGOTIATIONS STRENGTHEN CURRENT BARRIERS BY TURNING THEM INTO "BARGAINING CHIPS."

And if the United States did adopt an unconditional free-trade policy, its calls for open markets around the world would gain the moral authority that they now lack. Instead of trying to cajole, browbeat, and coerce other nations into curtailing their mercantilist policies, our approach would be much simpler, more eloquent, and ultimately more persuasive: We would practice what we preach and lead by the power of example. No doubt many countries would continue in their foolish and destructive policies. The experience of the past two years in Eastern Europe, however, should teach us not to discount the possibility of dramatic moves toward freedom, nor to underestimate the importance of role models in inspiring and guiding those moves.

What are the chances that the United States will embrace unilateral free trade? At present, absolutely nil. The chances won't get any better, though, until supporters of open markets give up the reciprocity temptation. It's time to concentrate our energies on perfecting liberty here at home.

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GETTING AWAY WITH MURDER

BY STANTON PEELE

The governors of Ohio and Maryland both recently pardoned a number of women imprisoned for killing their mates. The reasoning underlying the actions of outgoing Ohio Gov. Richard Celeste and Maryland Gov. William Donald Schaefer was that the women had not been allowed to describe adequately in court how their lives and well-being had been threatened by their husbands. They could have argued self-defense, of course; under the law, a person may defend herself with force if she is physically threatened and has no alternative. But it was by no means clear that these women had no alternative.

In recent years, we have come to a new understanding of the motives that drive women to murder their spouses. In many cases, these women are not threatened at the moment they kill. Rather, they have endured long-term abuse, while feeling unable to extricate themselves from the relationship. They then kill a husband or lover, with whom they usually live, at a moment of opportunity. In the seminal case depicted in the film *The Burning Bed*, Francine Hughes set her husband on fire as he slept.

Such women are said to suffer from "battered-woman syndrome." They are so psychologically debilitated by abuse that they lose their judgment and their ability to protect themselves. Eventually, they may come to feel that murdering a spouse is the logical way out of the situation. Professional organizations such as the American Psychological Association and the American Psychiatric Association have filed amicus-curiae briefs in support of the battered-woman defense. One psychologist, Lenore Walker, has testified in more than 100 trials in which defendants claimed to have been incapacitated by battered-woman syndrome.

Courts now routinely accept battered-woman syndrome. New York University law professor Holly Maguigan told *Newsday*: "Given that the highest court of New York has endorsed battered-woman syndrome, a judge refusing to admit it [as a defense] would be subjected to intense scrutiny." Meanwhile, a New York assemblywoman has introduced legislation to grant clemency to battered women who kill their mates, and a California assemblyman has proposed a law that would codify the battered-woman defense. Following the lead of Celeste and Schaefer, the governors of New York, Texas, and several other states are considering pardons for battered women.

Though she let her husband (right) beat their daughter to death, Hedda Nussbaum became a media darling.

But the battered-woman defense, however well intentioned, does not serve the goal of reducing family violence. Indeed, by undermining personal responsibility, the acceptance of this concept may actually contribute to the problem.

The details of cases said to involve battered-woman syndrome rarely fit the generic definition. Quite often, the abuse victims and the men they kill seem to have been involved in consensual relationships, from which the women derived basic emotional gratification. The women refused to leave the relationships when given a real opportunity to do so because they welcomed the intensity of their spouses' feelings. Francine Hughes, for example, had separated several times from her husband Mickey, only to return to him voluntarily.

The relationships that culminate in the killing of a spouse are often marked by escalating violence in which both men and women participate. Men are more likely to physically assault a spouse, and they tend to inflict more damage when they do so. But the final assault may not be the first time the woman has tried to hurt the man, and in some cases the violence seems very much premeditated.

The Baltimore Sun investigated several of the women freed by Schaefer. Among other things, it discovered that one woman had hired a hit man to kill her husband and then collected on her husband's life insurance. An article in the *Columbus Dispatch* reported that 15 of the 25 women pardoned by Celeste had not been physically abused. Six had discussed killing their spouses before doing so, and two had tracked down and then killed husbands from whom they were separated.

More troubling still are cases where battered-woman syndrome is used to excuse abuse and neglect of children. In their book *Intimate Violence*, researchers Richard Gelles and Murray Straus report that entire families are characterized by cultures of violence. In households where men abuse women and women retaliate against men, there is also much more violence against children.

In 1989, for example, the body of 3-year-old Andrew Mitchell was found in a shallow grave in Queens, New York. Andrew's mother, Geraldine Mitchell, admitted to burying the boy after her companion, George Chavis, had beaten him to death. Mitchell described how Chavis frequently beat her and her child. "He got jealous because I paid more attention to Andrew than to him," she testified. She also reported that, shortly before her son's death, Chavis scalded the boy with hot water and that she then beat her son for crying.

Mitchell pleaded guilty to man-

BETTMAN ARCHIVES

slaughter as part of an agreement for her testimony at Chavis's murder trial. But her attorney claimed the prosecution charged her with a crime only "because she's black and poor." The attorney argued that Manhattanite Hedda Nussbaum was not charged in a similar case in which she allowed her husband, Joel Steinberg, to beat to death their 6-year-old adopted daughter, Lisa. Nussbaum had let Lisa lie comatose on a bathroom floor for 12 hours before she called for help. During this time, she smoked cocaine with Steinberg.

During the Steinberg trial, Nussbaum was regarded as a textbook example of the battered woman, having given up all self-respect and personal independence in response to Steinberg's derision and assaults. The national media portrayed her sympathetically; a 1989 *People* cover story was titled, "Hedda's Story." At the same time, many people—feminists included—were appalled that a woman could participate in the abuse and death of a child, even if the woman was being assaulted herself.

In the 1990 book *What Lisa Knew*, Joyce Johnson describes Lisa's body as "a map of pain," covered with scratches, bruises, and dirt. Johnson, like the jury that tried Steinberg, felt Nussbaum was implicated in Lisa's death. For Johnson, Nussbaum was a wholly self-absorbed individual, incapable of looking beyond her own pain to understand—or care about—Lisa's. (A baby boy who also lived with Steinberg and Nussbaum was found tethered and urine-soaked by the police investigating Lisa's killing.)

The relationships that culminate in the killing of a spouse are often marked by escalating violence in which both men and women participate.

In any case of abuse within a family, there are likely to be serious problems all around. In March, Jane Scott was arrested in New York for leaving her 7-month-old boy in an unlocked apartment while she went on a six-day crack binge. She returned to find the baby had starved to death. Scott reportedly told a neighbor that she had left the apartment because her boyfriend had beaten her. The neighbor said that she replied to Scott, "If he beat you up, what makes you think he wouldn't beat the baby up?"

Contributing Editor Stanton Peele is a psychologist and health-care researcher. He is co-author, with Archie Brodsky and Mary Arnold, of The Truth About Addiction and Recovery: The Life Process Program for Outgrowing Destructive Habits *(Simon & Schuster).*

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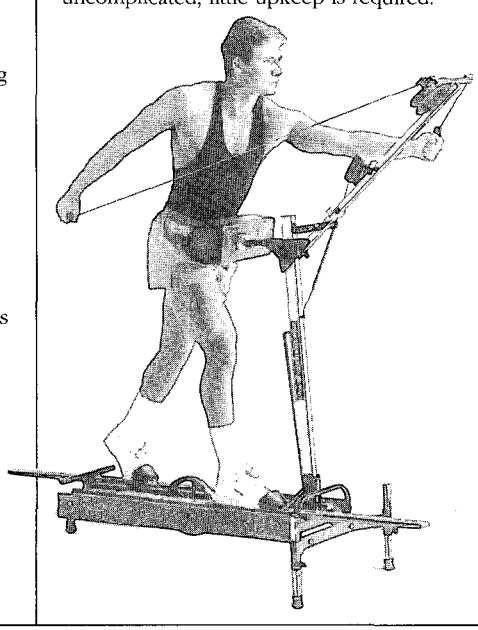

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BAD INFLUENCE

BY JAMES L. PAYNE

Politicians are scared. Last year, voters in Oklahoma, Colorado, and California approved ballot initiatives to limit the terms of state legislators. Citizen groups in 20 more states are pushing similar measures, and the campaign for a constitutional amendment requiring members of Congress to give up their seats after 12 years is gaining ground. "It's like standing in front of a train coming 110 miles an hour," says Rep. Patricia Schroeder (D-Colo.), a 20-year incumbent.

But advocates of limited government have so far been lukewarm to the idea of term limitation. Many of them feel it does not directly address the state's galloping growth, that it simply rearranges the players and leaves us no better off than before. This view is mistaken. Limiting the terms of legislators would indeed help to limit the scope of government. It's an idea that friends of liberty should support.

The reason is simple: The longer members of Congress serve, the more committed they become to the expansion of government. To understand why, consider how our senators and representatives assess proposals for increased spending and regulation. In Washington, proponents of government action dominate the opinion-formation process. In a study of 14 hearings before a variety of Senate and House committees dealing with spending programs, I found a total of 1,014 witnesses appearing in favor of the proposed spending, while only seven appeared to give what might be taken as criticism of it. In other words, prospending witnesses outnumbered antispending witnesses by 145 to 1. A similar imbalance is evident in private contacts with lobbyists and government officials.

It's no mystery why this imbalance occurs. Witnesses seeking the expansion of government power are paid to represent this point of view, either by taxpayers or by private interest groups, many of which receive government funding. The taxpayers pay for the collection of biased statistics "proving" that programs are working; they pay for the preparation of testimony and time off from work to deliver it; taxpayers even pay for government officials' cab fare to Capitol Hill.

To counter the avalanche of progovernment persuasion, who comes to Washington to criticize spending programs? In the case of most programs, no one. Ordinary taxpayers may be disgusted with tax policies or spending programs, but they lack the time, money, and expertise to play a role in the decision-making process. At both the state and national levels, the legislative environment is utterly dominated by the progovernment professionals.

My research indicates that this propaganda has its effect: Senior members of Congress tend to be more supportive of government programs than junior members of Congress. One way to measure the difference is to compare legislators' scores on spending measures, as compiled by the National Taxpayers Union. The results show that senior members of Congress are bigger spenders than junior members. This pattern holds for both parties, and it is not an effect of age. If you control for the number of years served in Washington, the legislator's age has no effect on his spending views.

Furthermore, tracking the same senators and representatives over time shows that individual members do indeed become more progovernment the longer they serve. (See "Inside the Mind of a Big-Time Spender," July 1986.) It's not just that members who like big government are more likely to run for re-election and therefore tend to stay in Washington longer.

In making these calculations, I have drawn the dividing line between senior and junior members at 12 years, the period stipulated in the proposed constitutional amendment to limit congressional

FISCAL CONSERVATISM OF JUNIOR VS. SENIOR HOUSE MEMBERS 1978-1989

Average Fiscal Conservatism Scores

Year	*Junior members*	*Senior members*	*Difference*
1978	107	83	24
1979	103	92	11
1980	104	91	13
1981	103	91	12
1982	104	88	16
1983	104	87	17
1984	104	87	17
1985	104	88	16
1986	105	87	18
1987	107	84	23
1988	106	87	19
1989	103	94	9
Average	**104.5**	**88.25**	**16.25**

Fiscal conservatism scores are based on National Taxpayers Union ratings. A higher score means the member voted for less spending. The NTU ratings have been adjusted so that the average score for all House members in each year is 100.

Junior members are those who had served no longer than six terms; senior members had served seven terms or longer.

terms. The figures in the table suggest that this amendment would have produced a more fiscally conservative House of Representatives in every one of the past 12 years. (The results for the Senate are similar but less pronounced and consistent, because most senators have previously served in government and have therefore already been brainwashed.)

The progovernment ethos of Washington takes its toll on senators and representatives.

Senior members of Congress tend to be more supportive of government programs than junior members of Congress, as evidenced by their scores on spending measures.

On most key taxing and spending votes, the effect of progovernment indoctrination shows up clearly. For example, on October 27, 1990, Congress approved the five-year budget plan worked out with President Bush to avoid the automatic spending restraints of the Gramm-Rudman-Hollings Deficit Reduction Act. This budget package astonished the nation by purporting to "cut" the budget while actually increasing nondefense spending by at least $245 billion. To pay for this increased spending, the plan effectively dismantled the fiscal discipline of Gramm-Rudman-Hollings; it increased taxes by $137.2 billion; and it provided—in what was billed as a "deficit reduction package"—for an increase in the deficit, to a record $254 billion (or more, if you include the effect of recession) for 1991. To outside observers, it seemed an arrangement to ensure the growth of government spending at all costs.

If the constitutional term-limitation amendment had been in effect, this budget plan would never have been approved, for it was senior members, those having served more than 12 years, who gave it the margin of victory. In the House, the measure passed by 28 votes: 228-220. But with the senior members removed, it would have failed by four votes: 142-146. In the Senate, the measure passed by nine votes, 54-45. With the exclusion of the senior members, it would have failed by six votes: 26-32.

A glance around Capitol Hill confirms the statistical picture. In program after program, the senior members of Congress are the champions of bureaucracy. For example, the patron saint of agricultural subsidies has been Jamie Whitten (D-Miss.), whose 50 years in the House of Representatives make him its most senior member. Five decades of pure, unadulterated lobbying by administrators and interest-group representatives have rinsed from his mind any idea of a duty to taxpayers. Speaking of his agricultural appropriations subcommittee, he says, "We represent the American farmer."

What would the budget look like if Congress contained only the less-indoctrinated junior members? A modest tightening— of a few billion dollars each year— would almost certainly occur. The compound effect of this restraint over a period of many years would be a spending cut of hundreds of billions—that is, about the amount of our current deficit.

Yes, all members of Congress, junior and senior, have shortcomings. But in the modern American system, senior members tend to have an additional flaw: Most of them have become unthinking proponents of the appalling progovernment ethos that surrounds them in Washington. The limitation of congressional terms affords a way to counteract this dangerous bias.

James L. Payne is director of Lytton Research and Analysis in Sandpoint, Idaho, and author of The Culture of Spending, *forthcoming from ICS Press.*

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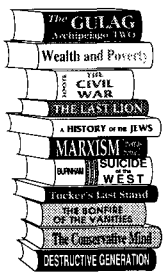

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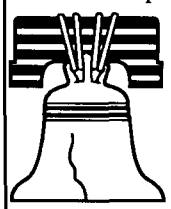

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GOING GLOBAL

BY MARTIN MORSE WOOSTER

The masters of the world these days are not governments but corporations. The largest of the world's corporations may not have as many divisions as the U.S. military, but in their financial strength, their ability to instantaneously transfer capital around the globe, and their ability to adapt to change, global corporations are among the largest and most dynamic institutions in existence.

Liberals and conservatives both like to use multinationals as convenient foils. On the left, global corporations are seen as ruthless, rapacious Scrooges whose only joy in life is stealing jobs from the First World and giving them to Third World workers at miserable wages. The faction of the right that distrusts anything that exists in more than one country (governments, businesses, the World League of American Football) considers multinational corporations to be but the newest members of the sinister cabal of the world's secret masters, along with the Council on Foreign Relations, the Trilateral Commission, and the ever-scheming Bilderbergers.

But the fact that a business is huge and global does not necessarily mean that it is remote and domineering. Not all large organizations resemble the Pentagon. The best multinational businesses, like superior businesses in general, delegate authority and devolve power whenever possible. The result is a large enterprise that, in its structure and organization, looks more like a symphony orchestra than a government bureaucracy.

In a lengthy, meaty interview conducted by William Taylor in the March/April *Harvard Business Review*, Percy Barnevik, CEO of Asea Brown Boveri (ABB), an engineering firm with annual worldwide sales of $25 billion, explains how his "multidomestic" corporation is organized. At the top is an executive committee of 12 people—Swedes, Swiss, Germans, and Americans. (All meetings and memoranda are in English.) This council of 12 oversees 50 heads of "business areas," each of whom oversees all of ABB's products in a given field. The leader of the business area in power transformers, for example, is a Swede who works in Mannheim, Germany; the electric meter business area is led by an American in North Carolina.

But ABB is simultaneously divided into national companies organized in time-honored ways. German customers order from ABB Aktiengesellschaft, a company that, like most German firms, employs apprentices and prepares "financial statements compatible with those from any other German company." In Finland, ABB Strömberg is staffed by Finns; in the United States, ABB Combustion Engineering is as American as apple pie. In each country, ABB divisions are divided by product; the head person who produces each product reports to the business-area leader and to the national company. The head of ABB's Norwegian power-transformer firm reports both to the CEO of ABB Norway and to Sune Karlsson, the power transformer business-area head in Mannheim.

Even if most people aren't willing to try "foreign" goods, they are certainly willing to buy items made by foreigners if they are less expensive than their "domestic" counterparts.

Why such a complex structure? Barnevik explains that "business areas" are useful simply because they are efficient ways of transmitting vital information. If ABB needs a plant manager for a new power transformer plant in Bangkok, Karlsson would know the three or four people (in Muncie, or Helsinki) who would be best qualified.

But national companies are needed because national differences matter; if 500 of Barnevik's top managers are trained to leap across national boundaries, fighting the lethargy of Spanish unions or the Japanese Ministry of Finance, the other 14,500 managers are definitely residents of their homelands. "I have no interest in making managers more 'global' than they have to be," Barnevik says. "We can't have people abdicating their nationalities, saying 'I am no longer German. I am international.' The world doesn't work like that."

The lessons Barnevik teaches were learned by successful American exporters a long time ago. A shopper in a supermarket in Strasbourg or the Hague will find as many of H.J. Heinz's relishes and ketchups as in America, but few breakfast cereals. Heinz successfully convinced European consumers that eating pickle relish was an ordinary part of their lives. But Frosted Flakes and raisin bran remained something that, to a European, only parvenu Americans eat.

Even if most people aren't willing to try "foreign" goods, they are certainly willing to buy items made by foreigners if they are less expensive than their "domestic" counterparts. And the meanings of *foreign* and *domestic* are murkier than they used to be. This is largely because—as William B. Johnston of the

Hudson Institute observes in the same issue of *Harvard Business Review*—labor is becoming increasingly globalized as the work forces in the West and in Japan grow older and families shrink.

While some markets (chiefly for such low-skill jobs as janitor and dishwasher) will remain local, Johnston says, the market for high-skill jobs is already international. American hospitals are hiring nurses from Dublin and Manila; the engineers at Bell Laboratories are as likely to be English or Indian as they are to be schooled in the United States. These immigrants, far from stealing jobs, are providing human capital that can be "deployed where it can be used most productively." A smart Thai computer programmer might spend years in Bangkok doing boring office work, but in America he could be designing computer systems.

In a global labor market, Johnston contends, conditions for workers are likely to improve, not decline. The German transferred to New Jersey will want her five-week paid vacation; the Californian sent to Madrid will still have his flex-time schedule. Johnston also notes that emigrants from the Third World have not caused a "brain drain" in their native lands; losing thousands of scientists and engineers, for example, does "not seem to have any appreciable impact" on the economies of South Korea, Taiwan, or China. Many emigrants return at some point in their careers and use their experience to enrich the economies of their homelands.

Johnston shows that protectionist labor policies, such as bans on immigration, harm economies and retard growth. Two other recent articles also discuss how economic globalization encourages dynamism.

In the spring *Policy Review*, Gary Saxonhouse, an economist at the University of Michigan, shows how Japanese investment has improved the American economy. Japanese manufacturing efficiency and a falling yen ensured that the prices of American imports fell by 1.1 percent annually between 1981 and 1986, the first time this had happened since the Korean War. Because Japanese computer chip prices plummeted, prices for all manufactured goods in the United States dropped by 4 percent between 1982 and 1990, the first sustained deflation since the Great Depression.

Thanks to Japanese competition, Saxonhouse argues, American manufacturers have become more efficient and less complacent. Japanese products (semiconductors, steel, machine tools) have improved American factories. Japanese management techniques, such as just-in-time inventories, have not only saved space and capital but ensured that deploying labor more efficiently is a more profitable strategy for American manufacturers than investing billions in automation.

Finally, foreign competition "has proved to be the most effective form of antitrust policy." Before Japan's exchange-control laws were liberalized in 1980, American monopolists would meet with their counterparts from labor, engage in "unattractive public battles," and raise prices, resulting in "cost-push" inflation. By freeing markets and intensifying competition, Japanese capitalists have forced their American rivals to hold the line on prices and dramatically reduced union clout. In the 1980s, less than 0.1 percent of American labor-force time was lost to strikes, one-third as much as a decade before.

If foreign corporations are improving the American economy so dramatically, why fight them? Brookings Institution visiting fellow Pietro S. Nicola shows in the spring *Brookings Review* that most government-sponsored attempts to battle purported foes—by "picking winners," encouraging "strategic trade," and so on—turn out to be boondoggles. French, Belgian, and Italian efforts to subsidize their steel industries resulted in "inefficient management, uncompetitive wages, and mounting debt payments." German industrial policy, says the Kiel Institute of World Economics, redistributes income from strong companies to weak ones.

Even the "high-tech megaprojects" sponsored by Japan's Ministry of International Trade and Industry have frequently failed. Japanese government efforts to create world-class pharmaceutical, chemical, and aluminum companies have not worked, and even some of MITI's computer schemes have picked losers. Nine years of subsidies to its Fifth Generation Project have not produced a computer with artificial intelligence, and such heavily subsidized supercomputer firms as Fujitsu are being crushed in the world marketplace by Intel and Cray Research, American firms that beat Japan without burdening the taxpayer.

An American industrial policy, says Nicola, might well ensure that the United States would be number one—in government waste. Far from dispassionately scanning the country for innovative projects, politicians are likely to use industrial policy as a way to grab goodies for their own districts or states. As Sen. William Roth (R-Del.) observes, "The trouble with picking winners is that each congressman would want one for his district." This "propensity to spread benefits" would ensure that industrial policy would resemble federal aid to universities, which goes to institutions in 46 states, or defense procurement, which gave us a B-1 bomber made from parts produced in 48 states and 300 congressional districts.

Efforts to prevent globalization by imposing immigration barriers or boosting corporate welfare amount to nationalist economic planning. Like more familiar socialist economic plans, they are based on the false assumption that a small cabal of bureaucrats (in Washington, Whitehall, or the Quai d'Orsay) is better able to supervise your life than you are. And flag-waving appeals to protect the lifeblood of the American economy from being polluted by foreign rivals are, at their core, calculated attempts to arouse the dark emotions that have fueled many of the foul political movements of our century. Such nationalistic appeals for the corporate state, observes Grover Norquist of Americans for Tax Reform, are part of "the politics of envy and hate that belong in the slums of the Weimar Republic—not America."

Martin Morse Wooster is Washington editor of REASON.

FREE BUT FRUSTRATED

BY MICHAEL KONIK

On the night of December 20, 1989, Rogelio Thirwall, a freelance cameraman for Panama's TV-4, was taping footage of America's invasion of Panama City for ABC News. Accompanied by several other Panamanian journalists, he was able to slip out of the Marriott Caesar Park Hotel, where most of the foreign correspondents were being either sequestered or held hostage, and record a video that would convey to the rest of the world the devastating power of America's aerial attack.

Guillermo Endara has found that governing Panama is more difficult than picking a ripe pineapple.

Shortly after leaving the relative safety of the hotel in search of evocative images, he saw something that would forever remind him of Operation Just Cause's human consequences. Caught in a gun battle between U.S. forces and members of Manuel Noriega's Dignity Battalion, Rogelio Thirwall watched a fellow photographer and close friend take a bullet in the head. His friend died instantly.

Today, more than 15 months later, Thirwall still isn't sure if the shot came from an American or a Panamanian. And in many ways he doesn't care.

"It was the worst thing I've ever seen," he tells me. "This was my friend. But you have to understand, this invasion had to happen. We Panamanians are sad about the lives that were lost. But the son of a bitch had to go. When it happened, everyone was happy." To illustrate the extent of Panamanians' initial joy, many residents like to tell the story (perhaps apocryphal, probably not) of a woman they viewed on CNN shortly after the attack. Lying in traction in a chaotic hospital ward with two broken legs, she smiled into the cameras and told her nation that she considered her fractures a small price to pay for Noriega's ouster. She said she would have given her life.

It was this kind of unbridled gratitude that, days after the invasion, typified most Panamanians' attitude toward Operation Just Cause. Though at least 139 civilians died during the shelling—in the week following the attack, neither *The New York Times* nor *The Washington Post* was able to verify official counts—and thousands more were wounded or left homeless, Panamanians were exultant. The invasion, according to White House spokesman Marlin Fitzwater, was "designed to restore democracy to Panama," and despite the looting, despite the thuggery of never-say-die Noriega supporters, despite the assassination attempts against members of the newly installed government, democracy, it seemed, had indeed returned to Panama.

A recent visit there revealed a country whose initial euphoria has been tempered—but not quashed—by time. More than a year after their country's ostensible liberation from an arrogant dictator, Panamanians remain jubilant about Operation Just Cause and hopeful about the future. Nearly everyone I talked to, from students to corporate managers to taxi drivers, spoke glowingly of America's forceful removal of a man they now call "pineapple head." They reveled in new-found freedoms—especially of speech and the press—and they pointed to exponential growth in construction starts and private industry as indications of how necessary and, in retrospect, productive America's incursion was. Nonetheless, Panama is a country that harbors deep reservations about its current government.

"The invasion was the best thing that could have ever happened," says Ted James, editor of a Panama City paper, *The Bulletin*, and a correspondent for the London *Daily Telegraph*. "But it has had no effect whatsoever on daily life. None. The violence and drugs that were formerly the sole province of the military have simply been passed on to the racketeers who used to work for Noriega." The new police force is weak, and street crime has increased since the government of Guillermo Endara took power. Many Panamanian businesses—from banks to restaurants—post guards armed with shotguns to deter robbers. "I think Endara's biggest error," James says, "was not making any radical changes in the months following Noriega's overthrow."

Panama's president, chosen in a May 1989 election that Noriega declared void, is legitimate. But he is not a popular leader. His wife, the former Ana Mae Diaz Chen, has been an unusually prickly source of domestic controversy. Outspoken and many years her husband's junior, Ana Mae Endara is considered low-class by many of Panama's aristocracy. One man, a major figure in the capital's business world who asked not to be identified, told me, "She isn't low-class. She has *no* class. The woman is stupid and loud. She should be his mistress, not his wife."

While Ana Mae Endara is often a source of official embarrassment, a more substantive problem, and one far more damaging to the Endara administration, has been its bureaucratic incompetence.

BETTMAN ARCHIVES

That few of Noriega's cronies have been brought to justice has left many Panamanians feeling unfulfilled. Only retribution for the guilty, they say, will effectively end a dark chapter in their country's recent history.

The United States concentrated most of its heavy shelling on the Chorillo section of Panama City, a neighborhood that once served as a Noriega stronghold, a desperately poor, arson-plagued concentration of squalor that housed many willing recruits for his Dignity Battalion. Operation Just Cause left Chorillo flattened. "This was a perfect opportunity for Endara to make a fresh start," says John Mann, an expatriate American who has lived in Panama for more than 30 years. "What was once a cancerous growth on the city was now more or less a huge vacant lot. They could have built new homes, they could have revitalized the whole area. But in 15 months they haven't done anything. A lot of people still live in vertical slums."

It's not clear who actually owns the property in Chorillo, but the government has to give the go-ahead for any development. When I passed through the neighborhood, it was impossible to tell that it had recently been the target of an intense artillery barrage. And it was impossible to tell that thousands of people once lived there. Chorillo is emptiness awaiting action—something the Endara administration is notoriously incapable of.

Carlos Navarro, a photojournalist for *The Pan-American*, a daily newspaper, says that the benefits of Noriega's removal are obvious—increased civil liberties, the end of the *sapo* ("toad") system of civilian spying, freedom to criticize the government—but the practical results have left him and many other Panamanians disappointed. "Basic services like electricity and water and telephone have all declined. The poor people are much worse than before." Navarro and many other Panamanians, urban and rural dwellers alike, repeatedly complained to me of America's delinquency in providing a promised aid package. "Endara says there is not enough money to take care of the services," Navarro says. "But the United States promised us millions! Where is it?"

While Panamanians used to say, "We were liberated!" some now say, "We were invaded!" Several business leaders told me that even though their respective industries have enjoyed remarkable growth since Noriega's departure, they resent the United States for "creating" Noriega and then "attaching too many strings" to promised aid. (The Bush administration has been pressuring Panama to amend its Swiss-like banking laws, which protect drug barons and tax evaders.)

Pedro Heilbron, vice president of Panama's largest privately owned airline, COPA, says, "I think there is some resent-

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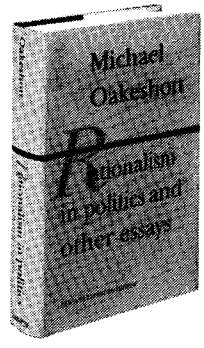

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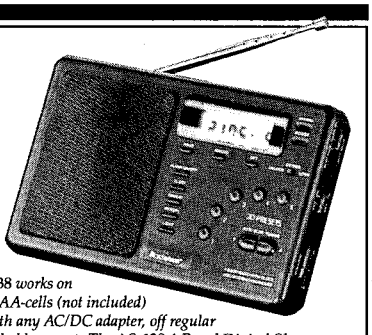

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PANAMA

ment over the aid issue, but Panama has always been America-loving, and more now than ever. Two years ago we had gone as low as we could go. The private sector was crippled. The people were crippled—psychologically, if not literally. Now, it's true there is more poverty and begging, but the private sector is really taking off. Yes, I think many people would like to see justice served faster and the government work better, but now," he says, smiling, "the people can vote for someone else if they're not happy. Two years ago that was impossible."

While Panamanians used to say, "We were liberated!" some now say, "We were invaded!"

It seems likely the people will do just that in 1993, when Panama is scheduled to have its first free election since 1968. Within Endara's cabinet, Guillermo "Billy" Ford and Ricardo Arias Calderon have already begun jockeying for political power, and the PRD (Partito Revolucianario Democratico), Omar Torrijos's old party, plans to provide some token opposition, despite enjoying virtually no popular support.

Whoever assumes power will inherit a host of domestic problems. He'll also have a singular opportunity to guide his country to international preeminence. (In 1997 Panama will be home to the largest free port in the world, which, coupled with the canal, makes for an awe-inspiring economic one-two punch.) Most important, the next leader of Panama will represent a constituency that has been touched by the exhilarating power of liberty. "There's a lot to make better," Rogelio Thirwall says. "But we can do it now because we're free. The changes will come, my friend, because now they *can* come. We're free."

Michael Konik is a playwright and freelance writer in New York City.

A FEW RESERVATIONS

BY JAMES BOWMAN

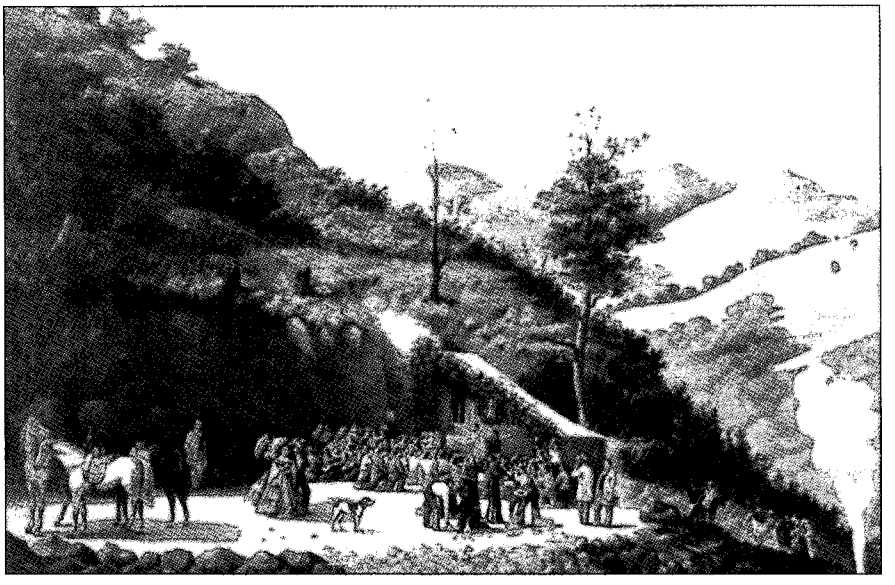
Among some marvelous pictures of the American West in an exhibition at the National Museum of American Art in Washington, D.C., last spring there were before-and-after photographs of a Dakota Indian maiden called Zie Wie (Yellow Moon). "Before," a grim-faced girl stares into a camera as she sits on the ground wrapped in a blanket. "After," the same girl, in a European-style dress but with exactly the same expression on her face, stares at us from a chair with a basket of sewing on her lap.

The exhibition's accompanying commentary reads, "The impact of acculturation was in reality far more devastating than works such as this [a painting by William Fuller called *Crow Creek Agency*] suggest. Before and after photographs of Zie Wie...taken at an Indian boarding school in 1878 reveal the price of progress as loss of cultural identity."

Alas, poor Zie Wie! We can only guess from her stunningly impassive features what that dress, that chair, and that box of sewing cost her in cultural identity. But let it not be said that the creators of the exhibition, "The West as America: Reinterpreting Images of the Frontier," were shy about guessing—or about revealing the political motivation for their conjectures.

"One often attains a clearer perception of period bias through what was not painted rather than what was," observes William Truettner, the curator principally responsible for the exhibition. The statement is a pretty good general indication of both his methodology and his own period bias—according to which all of American history can be understood in terms of the maxim: Red man good, white man bad.

The exhibition catalogue is full of the same kind of tendentiousness. Of a portrait by Charles Bird King of a beautiful Indian woman in European dress, Julie Schimmel writes that she "must have appealed to her white viewers as a morally inferior savage who was yet ennobled by simplicity and nature."



Alexander Edouart's *Blessing of the Enrequita Mine, New Almaden, California, 1860:* Does the scene's suspicious tidiness reveal a hidden ideology?

Must have? What kind of scholarship is this, where that which is not in the paintings can be used to interpret them in exactly the same way as that which is? Truettner tells us that it was significant that painters did not paint "the telling chaos of abandoned mining towns" or "barren and abandoned homesteads." Of Joseph Lee's pleasant painting of a homestead near San Francisco, the main thing Truettner notices is that it ignores the "less attractive aspects of urban life." Most people would think that these things are pretty hard *not* to ignore in painting a picture of a farm.

Of course, every picture that is about something is therefore not about something else. It takes a bold interpreter to pick with such confidence from among the infinity of things something is not about the one that is significant for being ignored.

Truettner can do other tricks, too. In a seemingly unremarkable courtroom scene by George Caleb Bingham, he notices that "the legal system, some now believe, upheld laws that curbed democratic practices; surely the defendants (the ordinary citizens) in these courtroom pictures received less than their full share of justice."

You can tell that from a *picture*? I couldn't even tell what the case was about.

But Truettner and his merry band of historical revisionists prove themselves whizzes at this kind of thing. From the suggestion of imperialism in the rectilinear frames to frequently observed crucifixion imagery in portrayals of white explorers and settlers, in image after image of the Old West they discover a project of "mythologizing," whose purpose was to provide a justification of the white man's rapacity in the name of "progress." As Schimmel explains, "White Americans perceived Indians through the assumptions of their own culture. As a result, Indians were seen in terms of what they might become or what they were not—white Christians."

Every culture perceives others in terms of its own. So what? Schimmel's

ALEXANDER EDOUART, BLESSING OF THE ENREQUITA MINE, NEW ALMADEN, CALIFORNIA, 1860. BANCROFT LIBRARY, UNIVERSITY OF CALIFORNIA, BERKELEY. THE ROBERT B. HONEYMAN, JR., COLLECTION

real project, and that of this exhibition, is to discredit white European culture for not being what it could not have been—Indian.

Going around the exhibition you couldn't miss it: There is no way for white artists to win. If they admire the Indian subjects, they are romantically distorting the reality. If they see them as violent savages, they are politically distorting it. Either way, the "reality" remains safely in the hands of the modern interpreters.

Now it is true enough to say that these painters "mythologized" the West. In the same way, Raphael mythologized the Holy Family, David mythologized the French Revolution, and Monet mythologized water lilies (nasty, smelly things!). That's what artists *do*.

Yet the subtext of Truettner & Co.'s exhibition is that such mythologizing is in itself discreditable. When I asked him why he thought the exhibition had generated so much controversy, Truettner told me that it was because this was "a sacred era of American history" and because people were shocked to discover "their preconceptions about the West were aligned with an ideology. The exhibit takes away a basic belief in images."

That is typical academic disingenuousness. Instead of defending his own ideology, Truettner pretends that he is only pointing out to gallery-goers less sophisticated than himself that there was an ideology at all.

There is no need to deny that there is a political content to many of these paintings, but the pictures offer no support to the political assumptions brought to them by their interpreters. About Alexander Edouart's painting *Blessing of the Enrequita Mine, New Almaden, California, 1860*, for example, the commentary tells us that it "represents the annual blessing of the mine as a tidy ceremony in which the often disparate interests of the Catholic clergy, Hispanic workers, and white owners were conveniently united." The words *tidy*, *disparate*, and *conveniently* tell us nothing about the political reality, only that the interpreters don't believe that those interests could have been united.

And the exhibitors' own ideology is left rather murky. It is, says Truettner, simply "the perspective of the 1990s," by which he seems to mean something like the vague complex of opinions and sensibilities that sometimes goes under the name of "political correctness"—an uneasy amalgam of antiracism, feminism, Marxism, and environmentalism. The reason that the "perspective" is not set out more clearly is that only in respect to the last of these do the Native American cultures come off very well.

Every culture perceives others in terms of its own. So what? The exhibit's real project is to discredit white European culture for not being what it could not have been—Indian.

No one pretends that tribal warfare and human sacrifice (quoth the catalogue: "Aztec children were rarely sacrificed and only in times of drought. Young male adults were the usual victims.") are enlightened alternatives to white racism, or that the Indians in general treated their women as anything but inferiors, if not mere beasts of burden. And true Marxism must welcome the capitalist rape of the primitive, prefeudal Indian culture. The historical dialectic is far more unforgiving than land-hungry white farmers or loggers or miners, and its iron rule of the supersession of nomadic and agrarian cultures by urban and industrial ones admits of no sentimental bleatings on behalf of those superseded. The "capitalist" and "imperialist" white Europeans were a sweet bunch of guys by comparison.

Only from an environmentalist point of view was white settlement clearly A Bad Thing. If it weren't for the white Europeans, where there are today farms and shopping malls and superhighways there would instead be millions of furry animals whose great-grandfathers our own made into hats. The Indians may have led an unspeakably brutal existence so close to nature, but at least they didn't tear up the earth, cut down the forests, and concrete over the prairies. As John Collier, a former commissioner of Indian affairs in the Interior Department, says, Indians lived in "perfect ecological balance with the forest, the plain, the desert, the waters and the animal life."

Which is OK if you like that sort of thing, as most of us who believe in supermarkets and polio shots clearly do not. And it is to the exhibitors' credit that they rarely indulged directly in the sort of enviro-sentimentalism that Kirkpatrick Sale does, for example, in his book about Columbus, *The Conquest of Paradise*.

Indeed, they seized upon examples of romanticizing about the Indians or what Frederic Remington called "the Old America which is so fast passing" to illustrate their thesis about how the West was mythologized. Yet at the same time they themselves attempted, in effect, to re-mythologize the West as vaguely "imperialist" and "exploitative" and constantly sneered at what their grandfathers took for granted as "progress."

But if there *was* a hidden ideology of empire and conquest implicit in the art of the West, were empire and conquest worse than the alternatives? The settlers found tribes of Indians playing the old zero-sum game of war, piracy, and mercantilist trade that most of mankind has played through most of its history. *Progress* was precisely the Adam Smith style of capitalism that delivered the world from the pernicious superstition that this was the way things had to be. When the settlers brought the good news that survival and growth did not have to be identified with greed and exploitation—their evil *doppelgängers*—there was indeed a compelling claim upon the Indians to assimilate. Instead of Zie Wie, the exhibitors might have tried before-and-after pictures of these United States. You would have to be a pretty dedicated troglodyte not to choose living in the "After" world.

James Bowman is American editor of the Times Literary Supplement of London.

FREE TO LAUGH

BY BRYAN MILLER

Aaron Freeman and Rob Kolson: Can you feature Milton Friedman and still have a comedy hit?

JENNIFER GIRARD

They're an odd couple: the blocky, charismatic, contrary black man and the angular, nervous, libertarian white man. Aaron Freeman's comedy is highly intelligent and very physical. Rob Kolson's comedy is highly intelligent and very musical. Together, they wrote and star in *Do the White Thing*, Chicago's longest-running revue, a revue in which one skit ends with Mikhail Gorbachev on his knees before a giant portrait of Milton Friedman.

Freeman and Kolson met six years ago at a Chicago nightclub where Freeman, now 34, was performing his celebrated brand of standup political comedy and singing song parodies sans accompaniment. Kolson—who is a thesis shy of a doctorate, has taught economics at the University of Chicago's Graduate School of Business, and spent four years as an investment banker ("without a single indictment")—offered his abilities as a self-taught piano virtuoso and music arranger. An act was born.

When Chicago's Organic Theater asked Freeman, 38, to work up a show and Freeman asked Kolson to be a part of it, Kolson at first declined: "I was too busy being president of a whey company up in Wisconsin." But when Freeman pressed, Kolson agreed, and they spent the next six weeks working together almost nonstop. "I was ready to quit that job anyway," rationalizes Kolson. *Do the White Thing* opened in the Organic Theater's experimental Greenhouse annex in November 1989 and readily, steadily won audiences, moving a few months later to the main stage.

Aaron: *I'm an IRS auditor,*

I'm gonna give you trouble, just you wait and see.

Rob: He's from the Internal Revenue Service,

And he's gonna seize your property.

Aaron: *Unless I get a small fee.*

Rob: And if you did absolutely nothing wrong, babe,

Aaron: *Well, that don't matter to me.*

That's because I'm a federal government bureaucrat, babe.

I'm gonna roll all over you.

Rob: He's a federal government bureaucrat, baby.

He's gonna roll all over you.

Aaron: *I'm gonna make you blue.*

Rob: He's a surly civil servant.

Aaron: *You better watch what you do.*

"The idea with this show was to write a revue that was structured like a play," says Freeman. Certain bits are the same from show to show, starting with the opening: Freeman and Kolson meet on a street corner while attempting to hail cabs. Freeman gets passed up because he's black; Kolson, because he's traveling with a spinet piano. They introduce themselves to each other and the audience. Freeman: "I'm a political satirist. I make fun of politicians." Kolson: "I'm a financial satirist. I make fun of the people who own them."

Newspaper boxes with the day's *Chicago Tribune* and *Sun-Times* provide the grist for a regular improvisational feature. Freeman and Kolson also improvise a song, using audience suggestions. "Sometimes it really comes together, with harmonies and everything," observes Kolson, "and then everyone thinks we wrote it ahead of time."

Other skits, most of them evolving to stay current, include Saddam Hussein's attempt to escape retribution by hiding out inside the ego of Jesse Jackson; "West Bank Story"; German reunification; and Mikhail Gorbachev's conversion to the concept of the free-market economy. Freeman and Kolson bring the local, national, and international news into the show, explaining—without appearing to do so—which politician is which for the benefit of those who generally confine their newspaper reading to the sports section.

Songs are a part of almost every sketch, whether delivered by Kolson, smirking behind his piano or guitar, or by Freeman in his typically over-the-top, death-or-glory style. They exploit all styles, from Broadway ("Give me a world where the markets are free/And the government stays away from me/And everyone believes in private property/That's libertarianism!") to the blues, and from country and western ("Don't really care if she cooks/Don't give a damn about her looks/Don't even care if she's funny/I just care she knows money!") to the more pretentious sort of rock. The songs may be solos or duets, but they're always boffo—and behind the yucks always lurks a serious point.

The emotional high point of the production is Freeman's re-enactment of his brother Julius's death from lung cancer, the source of the revue's title. Julius, doped on morphine, is ready to go to the place where the colors all converge to

make white light—"Do the white thing!"—but returns to say farewell to his daughter. It's a touching tribute to a brother—and it took some courage to put it into a comedy revue.

But Courage is Freeman's middle name in actual fact, and he and Kolson aren't lacking in chutzpah. The show has included AIDS jokes, and a leitmotif turns the name of a prominent Cook County politician into a sexual dysfunction. The authors/stars confess to some surprise that *Do the White Thing* has been such a hit. "Isn't it amazing that a show has been running for 15 months that uses the word *libertarian* at least 10 times?" asks Kolson in a February interview. "And Milton Friedman appears as a deus ex machina. People must think we're crazy!"

In fact, says Kolson, "People tend to interpret the show as close to their own perspective. It appeals to all spectrums."

"Actually, people say, 'He's not *really* a libertarian, is he?' " growls Freeman.

Freeman isn't. His objections seem to turn on one thing: In a completely free-market system, individuals could be turned away from private establishments because of race, something he calls "evil," and he characterizes libertarians as "anarchists with credit cards."

Yet Freeman came up with Gorbachev's line, "Democracy is the horse we will ride/With freedom and capitalism right alongside." "And I said, 'General audience—maybe it's a little strong,' " recalls Kolson. "And then Aaron got into an argument with our director—who is a socialist and a defender of the Soviet Union and wanted to take that line out—about what horrible things socialism had done to that country. It was too wonderful for words."

Rob: I'm an FDA researcher.
I like to play with rats and mice.
Aaron: *He's an FDA researcher,*
And he's gonna give you some advice.
Rob: Diet soda's not nice.
Aaron: *So you know what he'll do if you keep on drinkin' it, girl.*
Rob: I'm gonna put you on ice.
That's 'cause I'm a federal government bureaucrat, babe.
I'm gonna roll all over you
Aaron: *Yeah, he's a federal government bureaucrat, babe.*
He's gonna roll all over you.
Rob: I'm gonna make you stew.
Aaron: *He's a surly civil servant.*
Rob: You better watch what you do.

Now two-thirds of the way through what its authors/stars expect to be a 30-month run, *Do the White Thing* recently moved to Chicago's Steppenwolf Theater—at 200 seats, a somewhat more intimate venue than the 300-perch Organic.

"This is now the second-longest running show in Chicago," says Kolson. "Second only to *Shear Madness*," adds

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Why are the bookstores so afraid of this harmless little book?

Every once in a while, a book comes along that is so unusual and entertaining, people buy several copies to give out as gifts to friends and relatives. "Live Rent-Free For Life" is that kind of book.

One college professor has made it required reading for his economics class. A public spirited citizen has sent free copies to the Mayor of San Francisco and twelve city supervisors to dissuade them from reinstating vacancy rent control. A lawyer from Brooklyn ordered a dozen to give out to his clients. The response so far has been unanimously positive and truly amazing.

But even more amazing is the fact that this "harmless little book" is only available through mail order. For despite receiving hundreds of requests for "Live Rent-Free" every week, most bookstores are literally AFRAID TO CARRY THIS BOOK.

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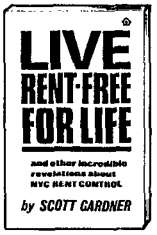
You too may want to order extra copies of "Live Rent-Free" to give out as gifts. Send them to your politicians and lawmakers. It will be an enlightening experience for them to read the book one reviewer called, "...a masterpiece of political satire." Another customer wrote, "...my ribs are sore from laughing." And a woman reader told us, "...I was convulsed by your book" Order two copies, get a third book FREE. To get yours while the supply lasts, send $11.95 (includes shipping) plus .99 tax per book to:



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Freeman. *Shear Madness*, he explains matter-of-factly, is "the longest-running play in Chicago history...first performed by Jean-Baptiste Pointe du Sable in the late 18th century."

"The greatest thing about this is that we've got a show here that's been running for 15 months, and it's right in the middle of its run; the last couple of months have been the highest box office ever—it's a hit, it's a big hit, and it talks about libertarianism," says Kolson. "We don't market it that way—God forbid we should say it's political satire. God forbid we should say it's intellectual. We say it's *funny*."

"We *don't* say it's 'smart'!" stresses Freeman. "We tell people who like it, 'Please, *please*, do *not* tell anybody that it's smart!' "

"...because people who are *not* intellectual enjoy it too," continues Kolson.

"...people who don't know who Milton Friedman is, which is about *90 percent of the audience*," interrupts Freeman.

"People come to the show because they've heard it's funny," Kolson goes on. "People have told me that they're not fans of political satire, but they really liked the show, because they're fans of comedy. We don't want to eliminate anyone from our potential audience."

And they haven't. After all, says Freeman, "I never *said* I was anticapitalist!"

Aaron: *Hey, I'm a defense department purchasing agent.*

I waste billions every day.

Rob: I'm a health and human services administrator.

I waste billions every day.

Both: *But really that's OK.*

'Cause ya know it just ain't our money,

So we can spend it any old way.

We're peevish paper pushers.

Aaron: We've got a lotta gall.

Rob: *We make tens of thousands every year.*

Both: And we do nothing of value at all.

Because we're federal government bureaucrats, momma.

Bryan Miller is a Chicago-based freelance writer.

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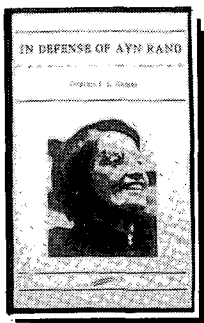

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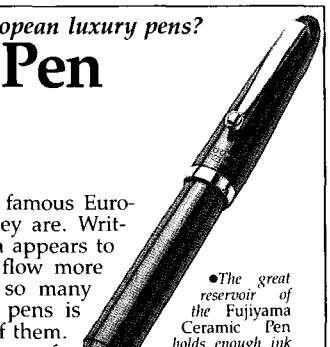

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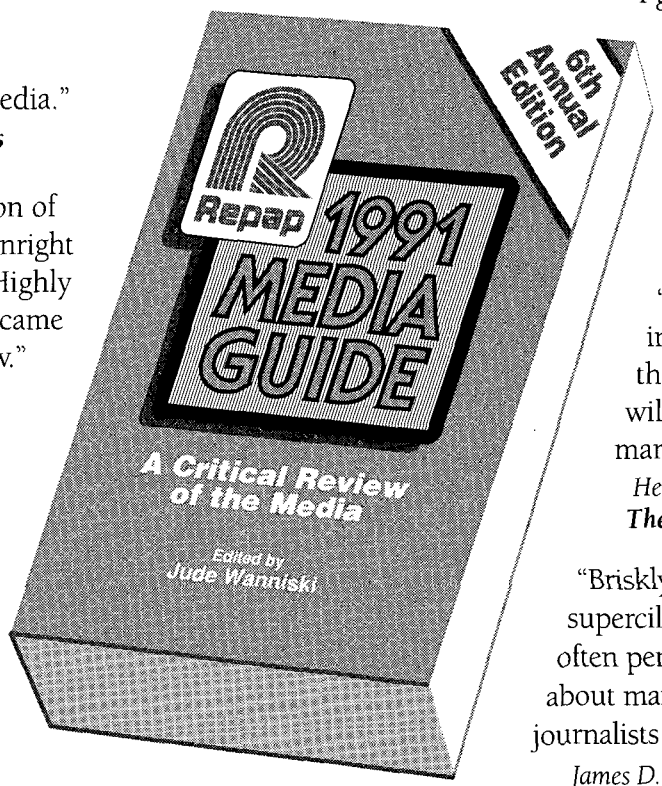

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Invasion of the P.C. Pods

BY LOREN E. LOMASKY

Illiberal Education: The Politics of Race and Sex on Campus
By Dinesh D'Souza, New York: The Free Press, 329 pages, $19.95

Has the University of California, Berkeley, been taken over by alien pods?

Indulge, for a moment, in a fanciful thought experiment. Imagine that alien invaders have surreptitiously replaced the benign, well-meaning administrators of our universities with *pods*, zombified replicants of human beings. The pods' mission is to create havoc by setting race against race. They wish to dispirit blacks, embitter whites, undermine the traditional mission of the universities, and all the while enjoy the plaudits of "progressive" and "enlightened" folk everywhere.

How might the pods pursue their project? I suggest that they could hardly choose more skillfully than to follow the affirmative-action path that has been blazed by the actual, allegedly non-pod guardians of higher education in America.

The result of a successful mission would be the very situation Dinesh D'Souza depicts in *Illiberal Education*. In the guise of establishing rules of civility for the so-called university community, the new censoriousness has fractured campuses into blocs segregated by race, gender, and sexual proclivities. A politics of suspicion and hostility smolders. Neither codes distinguishing permissible and impermissible forms of speech nor mandatory "sensitivity sessions" for faculty and students dispel these tensions; rather, the blunt instruments of the thought police become yet a further source of animus. Liberalism itself is under seige in our academies.

The plight of the "nation within a nation" is America's perpetual gaping sore. It has outlasted the demise of slavery in the previous century and the overthrow of "separate but equal" in this one. The continuing inability of black citizens to share fully and equally in the progress that others enjoy is a standing reproach to the ideals on which the United States was founded. Universities are more than usually attentive to ideals, and so it was inevitable that they would respond to the distress of black America. What was not inevitable, however, is that they would exacerbate it.

And it is here that we can imagine the work of the pods. Their first step would be to increase the representation of blacks in student populations—but to do so in a way that sacrifices equal treatment and academic standards in favor of quick fixes. By the mid-1960s, most universities had adopted policies to ensure that no barriers of prejudice or inhospitality blocked the entry of any qualified applicant. And they had widely publicized their commitment to safeguarding minority access. The result was increased black enrollment and graduation rates, but these still significantly lagged the proportion of blacks in the overall student-age population.

Fewer blacks than whites graduate high school, and those who do display, on average, a markedly lower level of verbal and numerical skills. The white-black differential in SAT scores is almost 200 points, and the disparity is heightened at the highest levels of SAT performance demanded by elite institutions.

To reduce these disparities, universities could spend years working to improve the primary and secondary education of minority students—by, for instance, adopting low-performing school districts, as Boston University has adopted Chelsea. But such long-term investments offer scant reward to the ambitious administrator. The eventual payoff emerges only decades later and is dispersed across an indefinite number of institutions. To move up the academic hierarchy or, just possibly, get tapped for the presidency of the Ford Foundation, one needs to turn the academic equivalent of the fast buck.

The great virtue—or, from another perspective, vice—of affirmative action is its speed. By relaxing admissions standards for minority applicants, the numbers can be made to fill whatever quota is deemed "socially desirable"—and to fill it immediately.

D'Souza reports at length on the University of California at Berkeley's efforts to increase the enrollment of blacks and other protected minorities through affirmative action. The school evaluates students on an internal merit

UNIVERSITY OF CALIFORNIA, BERKELEY, CA.

index where the maximum possible score is 8,000. Berkeley routinely admits blacks who achieve 4,800 or better, while whites who score below 7,000 are typically rejected, and Asians with a 7,000 score have a 50-percent chance of gaining admission. Other competitive schools have adopted similar stratagems. The consequence is a ratcheting effect: Blacks who could have been admitted on a straightforward academic-achievement basis to Berkeley or Bowdoin are instead induced to attend Harvard, those who might have performed well at San Jose State find themselves in the more demanding environment of Berkeley, and so on. Whole student populations are thereby systematically misplaced.

The results are predictable. Many black students regularly find themselves overmatched by their white collegiate peers. Some manage to overcome this relative disadvantage, but many do not. About 70 percent of white and Asian students admitted to Berkeley eventually graduate, but the graduation rate for blacks is under 40 percent. The statistics conceal an even more pronounced failure for preferential admissions; while 42 percent of regularly admitted blacks graduate within five years, the figure is 18 percent for those admitted under affirmative action categories.

What these figures only hint at are the destructive psychological effects of mismatching students and universities. Eighteen- and 19-year-olds tend, in the best of circumstances, to be troubled by episodes of self-doubt. But to find oneself placed in a situation where one starts off behind most others and where the prospects of success are evanescent is bound to take a severe toll.

Attitudes of nonaffirmative-action students are also likely to be strained, for different reasons. Their sense of fairness is violated when they observe that others have been allowed to play the admissions game under a considerably relaxed set of rules. Many have hometown friends who were rejected although their scores and high school grades compared favorably to those of accepted minority students. Their experience of affirmative action may, unfortunately, inspire rather than extinguish racial antagonism.

It is not, then, surprising that intergroup relations are tense. Sometimes this breaks out into overt recrimination and insult, but more common is the spotting of affront where none was intended. Accusation brings counter-accusation, and college administrations desperate to stanch the stream adopt restrictive speech codes. More than 100 such codes have been instituted or revised in recent years. As a device for securing campus comity they are a poor substitute for a shared sense of participating in a common enterprise.

Not incidentally, the speech codes undermine in particularly blatant fashion universities' traditional commitment to vigorous, unimpeded inquiry and debate. Expression of ideas is limited either overtly or by tacit understanding that nothing is to be said that may give offense. With radars of suspicion permanently deployed, the limitation is severe. It is quite unlike parallels speciously drawn to prohibitions on crying "Fire!" in a crowded theater or assailing someone with "fighting words." Rather, any deviation from the reigning orthodoxy's pieties of politically correct usage is liable to draw the ire of the censors.

As enfant terrible, D'Souza was editor of the raucously conservative *Dartmouth Review*; he subsequently graduated to the pages of *Policy Review* and a post in the Reagan adminstration. But *Illiberal Education* is far from a right-wing hatchet job. Rather than being animated by a desire to settle old political scores, it manifests compassion for the worst-off victims of affirmative action: those whose hopes of advancement through education have been sacrificed on the altar of quotas and ideological purity. It is the work of a fair-minded and generous man.

I believe, though, that it is just these qualities that lead D'Souza to misappraise the motives of those whose policies he opposes. "There is no disputing [their] well-meaning ideals," he writes. But that is precisely what I do dispute. D'Souza takes them to be people possessed of decent intentions but misjudged implementation strategies; I, on the other hand, believe that what they pursue with considerable efficiency are fundamentally corrupt designs. They are, in other words, pods.

Against D'Souza's interpretation I bring to bear the very mass of data that he himself has laboriously accumulated. It unambiguously points to persistent failures either to meliorate minority disadvantages or to elevate the level of discourse at universities; effects have run in the opposite direction. Two decades ago, perhaps even one, a reasonable person might have supposed that things would work out otherwise. Today that is not credible. Yet rather than admit the dismal failure of the program, its acolytes serve it with vigor as great as or greater than ever. Why?

Two possible answers suggest themselves. First, these people may be unusually stupid, either incapable of learning from experience or too content with the ignorance in which they wallow to allow mere facts to trouble it. The problem would then be not pods, but sods.

The explanatory power of the Stupidity Hypothesis is, however, limited. We may occasionally discover a feeble-minded Berkeley chancellor, Harvard dean, or Duke litterateur, but the probability of a consistent run is negligible. Besides, P.C. manifestos are by no means the products of third-rate minds. They display wonderful inventiveness in constructing possible worlds in which these policies are glorious successes—and in arguing that one of these is, indeed, the actual world.

I turn, then, to the second possibility: These individuals discern the consequences of their policies but pursue them nonetheless. Either they simply do not care about the damage caused or they care about other things more. What sorts of things? For one, sharpening the class/racial/sexual struggle by promoting a politics of divisiveness that emphasizes the importance of groups at the expense of the individual. For another, building up résumés that ooze sensitivity to fashionable causes.

It matters quite a lot whether the promoters of P.C. are well-meaning bunglers or genuinely evil people. If hearts are in

the right place but heads slightly clouded, then patient education concerning the consequences of affirmative action and its ill-starred progeny can be expected to reverse the decline of the universities.

Illiberal Education is an exercise in patient education, and it concludes with three recommended correctives: Substitute affirmative action policies based on economic disadvantages for those that proceed via racial criteria; refuse to recognize or fund racially separatist student associations, but sanction those based on shared cultural interests even if they appeal predominantly or exclusively to minority students; expose students to both Western and non-Western classic texts that address issues of human equality and difference. D'Souza calls these "modest proposals." I fear they are modest to the point of being insipid. All could be instituted without fundamentally troubling the reign of campus repression.

If one's opponents are pods, a strategy of confrontation and combat is necessary. It is precisely their allegedly good intentions that must be challenged. If political levers inside and outside the university are engaged, there are decent chances of resisting their incursions. The Berkeley experience is indicative. When Asian parents found their children rejected despite better records than accepted blacks and Hispanics, they protested in the courts, legislature, and media. They attracted considerable public sympathy, and the university received an increasingly bad press. Berkeley's chancellor parried with sops to individuals, half-measures, evasions, and outright lies. The parents were not mollified. After suffering months of acute discomfort, the chancellor resigned.

It is a safe bet that this episode has registered with administrators across the country. With a few honorable exceptions, they are more managers than academics, careerists who view with trepidation a forced return to classroom and research duties. What they desire above all is to steer their ships smoothly around possible squalls. They are what we might call passive pods, motivated by sloth and indifference rather than any activist agenda. The exponents of political correctness have shrewdly exploited their fear and lethargy.

What has too often been lacking until now are vociferous challenges from the other direction. Defenders of liberal education must meet stridency with stridency and demonstration with counter-demonstration. Their aim must be to make the lives of administrators truly miserable. Placed in a predicament of damned if they do, damned if they don't, some administrators will resignedly elect to do the right thing. Because they are pusillanimous, there is hope.

Effective combat against campus totalitarianism requires greater emphasis on the severity of harms being deliberately wreaked on universities, their students, and their faculties. These include, but certainly are not limited to:

If one's opponents are pods, a strategy of confrontation and combat is necessary. It is precisely their allegedly good intentions that must be challenged.

Corruption of Language. Effective teaching and scholarship depend above all on precise language. The corollary of sloppy expression is sloppy thought. But universities, to sustain political correctness, are driven toward a topsy-turvy wonderland in which words mean their opposites. "Pluralism" and "cultural diversity" become the heavy-handed enforcement of a rigid orthodoxy, "community" the maintenance of Balkanized subdivisions in uneasy coexistence.

The catalogues, job advertisements, and press releases of almost every institution of higher education in the country carry disclaimers of the form, "The University of — is an Equal Opportunity educator and employer and does not discriminate on grounds of race, sex, religion, disability, affectional preference, Vietnam war status..." These same institutions vigorously enforce racial and sexual criteria for hiring and admissions decisions. People habituated to referring to quotas as equal opportunity and selection on grounds of race as nondiscrimination become unable to use language as other than an instrument of obfuscation and deception. They pass on the disease to students and colleagues.

Destruction of Openness. Third-year Georgetown law student Timothy Maguire reported in a recent issue of the *Georgetown Law Weekly* that blacks admitted to the law school averaged 36 on the LSAT and carried a 3.2 grade-point average while whites averaged, respectively, 43 and 3.7. Out of 100 surveyed white students who had been admitted, none scored below 39 on LSAT. Maguire derived these statistics from a random sampling he performed while working in the Georgetown admissions office.

An uproar ensued. Georgetown Dean Judith Areen complained that the article's "tone, thrust and content are contrary to the entire spirit and policy of the Law Center on admissions." She did not, however, contend that the figures were wrong. Maguire was reprimanded, though allowed to graduate.

What is most striking about this affair is the gap between what the university is willing to do and what it is willing to admit to doing. If the "spirit and policy" of Georgetown's affirmative action program is to apply different standards to black and white applicants, why should the school fail to give the spirit flesh by openly announcing and defending the policy? If Areen believes that Maguire's article was misleading, she now has a splendid opportunity to detail just how the school does decide whom to admit.

Indoctrination, Not Education. New Duke University students are required during orientation week to attend an encounter session at which they receive instruction in the principles of a document called "Duke's Vision." They learn that the basis of a "humane and just society" is something called "multiculturalism."

Conversely, they are taught that "uniculturalism" is a denial of the humanity of others. One way to be a uniculturalist is to hold that the same standards imply impartially to all people. Duke's official ideology thus neatly consigns to the dustbin of vile prejudices the bulk of the traditions of philosophical ethics and Western moral theology—all before these students have taken one class.

Playing Fast and Loose with Academic Values. I once taught at a university in an area where American Indians are the predominant minority population. The university offered an Indian Studies program but experienced trouble staffing it. The dean hired as instructor in Indian Studies a man who possessed only a bachelor's degree. In a private letter accompanying the appointment papers, the dean indicated that this individual would be given tenure if, within, the next six years, he earned a master's degree. Shortly before the deadline, he submitted a thesis. It contained a half-dozen pages copied verbatim from a prior study. That source was not attributed. A select faculty committee unanimously determined that plagiarism had occurred. Based on this finding, the (new) dean of the college terminated the man's appointment. But the university chancellor reversed the decision. The chancellor maintained that the intent to plagiarize had not been fully established. He suggested in an internal memorandum that the copying may instead have sprung from "underdeveloped skill in scholarly writing." The instructor's inadequacy as a scholar had become a point in his favor.

There is, though, a positive side to the New Repression. What the politically correct assail are, at bottom, the basic tenets of liberalism. Because P.C. is explicitly illiberal in its apotheosis of the group over the individual, it affords a clear view of what life stripped of liberal safeguards can be like. Many will find that view chilling. Just as an earlier generation rejected the language of "destroying the village to save it," so too will members of this one reject the language of a "pluralism" that imposes conformity and an "equal opportunity" that commences from racial/sexual categorizations.

A kind of natural selection process is already emerging. Those content to be sheep will opt for the path of least resistance and mouth the platitudes the pods teach them. Some will even become pods themselves. But those of greater intellectual and moral integrity will be motivated to put these platitudes to the test of their own experience and common sense. I would not be surprised if the first decades of the next century are graced by a renewed appreciation of liberal values.

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The Invisible Fist

BY CRAIG M. COLLINS

The Litigation Explosion, by Walter K. Olson
New York: Truman Talley Books (Dutton), 388 pages, $22.95

In recent years, lawyers have thrown a raucous party for themselves in the courtrooms of America—laughing, drinking, carousing, snuffing out their cigarettes in the carpet, smashing the furniture, and tipping over table lamps. Nonlawyers are invited only to supply the beer and then are quickly shown the door. In the midst of the madness, a fire has started, which has climbed the wood-paneled walls, burst through the windows, and leapt across to the rooftops of factories, hospitals, municipal buildings, and amusement parks across America, threatening to burn them to the ground.

The inferno is on a rampage. Soon Americans will be left jobless, homeless, and funless, but with a hell of a lawsuit against... whom? There won't be anyone left to sue.

Walter K. Olson sounds the tocsin for this holocaust in *The Litigation Explosion* —with rhetoric admittedly a bit less shrill.

Olson, a member of the free-market Manhattan Institute think tank, departs from the tendency of most books about the litigation crisis to focus on ever-burgeoning state and federal laws. Olson instead focuses on legal procedure. The problem is the rules by which lawyers play when seeking to vindicate their clients' rights, regardless of the number or strength of those clients' rights.

The drawback to this approach, of course, is that legal procedure is extremely boring. Lawyers may care about it because they have to know it, but *The Litigation Explosion* purportedly is directed at nonlawyers, whose knowledge of such things is tinier only than their desire to know more.

For the plucky few who wish to be informed, however, Olson delivers. Want a full discussion of the expanding constitutional limits of long-arm jurisdiction? Olson gives it. Want to understand how judges have widened the scope of pretrial discovery? See Chapter 6, "The Assault on Privacy." Lax standards for contemporary pleadings? Runaway punitive damages? End to the restraint lawyers once exercised in soliciting clients? It's all here. You can look it up—though not in the index, which is wholly inaccurate and could as well be for another book. (Olson should correct this product defect before it becomes the source of some class-action lawyer's revenge.)

By making changes in these and other areas of legal procedure, Olson argues, judges have hugely expanded the size, number, and invasiveness of lawsuits in the hope that the legal system would become an "invisible fist" for social reform—a more coercive force for social good than Adam Smith's invisible hand. But, Olson warns, "The unleashing of litigation in its full fury has done cruel, grave harm and little lasting good."

The fuse for this explosion was lit when judges loosened the rules of jurisdiction. Previously, the Due Process Clause was thought to protect someone

from being dragged across the country to answer a lawsuit in another state unless the dispute arose there. Limits on jurisdiction were not intended just to alleviate a person's inconvenience of traveling to another state. Rather, they avoided the unfairness of submitting someone (and her personal wealth) to a trial in a foreign state's court, where the opposing party is a resident of that state—who perhaps votes in judicial elections—and the defendant is not. At one time, the Constitution was interpreted to forbid this, unless the defendant committed some act within the boundaries of the foreign state that could be deemed an act of "consent" to be tried in its courts.

The end of this limitation sparked a nationwide competition among courts for lawsuits. State courts effectively couldn't limit lawsuits even if they wished to, since the new rules made it possible for lawyers to take their cases to some more-generous state's courts. When states did attempt to show restraint, it led only to wildly varying verdicts across the country for exactly the same legal claim.

Under the invisible-fist theory, legal philosophers reasoned that the increase in litigation was a good thing. It meant more rights were being vindicated. To further encourage this process, more procedural restrictions were laid flat.

Lawyers once were limited in how much they could rummage through a person's files and private matters for evidence to substantiate their claims. If they didn't have at least some evidence of a good claim, they could not expose a person to this nuisance.

That was too confining for the new thinkers, however, as they felt more discovery could only help more claims reach a just resolution. "Many long-suspected sins and scandals," Olson says, summarizing their position, "and others not even suspected, would at last be brought to light, and the reign of the saints would be complete. The human race would walk around with a blush on its face, as perhaps it ought."

Judges, together with the legal experts who write the procedural codes, made other changes to encourage litigation. Huge contingency-fee awards, in which the lawyer takes a cut of the litigant's winnings, have encouraged suits. Class-action procedures were relaxed so lawyers can wage lawsuits, and be paid in full, for grievances too minor for any affected person to care about.

Verdicts became huge. Litigants could win far more than they were harmed, if the lawyers could convince the jury the defendant in a particular case needed punishing. "A curious thing was happening," Olson writes. "Some of the hapless plaintiffs were beginning to attract not sympathy but downright envy; their injuries were the best thing that had ever happened to them."

The problem, of course, is that punishment once was reserved for the criminal courts, where many safeguards apply. Evidence rules are stricter. The prosecutor is expected to seek justice, not simply conviction, and has no personal financial stake in the outcome.

These new thinkers have been knocking down any rule that, when enforced, would occasionally interfere with justice—the rule that you had to get things in writing, for example. Occasionally this rule meant someone who had agreed to something, but who hadn't signed a document, could sneak out of the bargain. That is unfair, but the benefit of a clear and certain rule outweighed the loss of some justice.

The fuzzy new standards, which allow the courts to reconsider everything, sometimes ripping up a willingly entered, signed contract because the judge doesn't think it fair to one of the parties, has created great uncertainty. Uncertainty breeds litigation.

Under the influence of the new thinking, our legal system is evolving toward a benign dictatorship of the judiciary, able to achieve justice in every case since it is not bound by written laws or previous court decisions, but subject to the danger that this absolute power will corrupt judges, and certainly the lawyers and litigants who wield it. The solution to this litigation frenzy, Olson believes, lies where the problem lies: legal procedure.

Limit jurisdiction, he suggests, tighten rules on class actions, raise the standard of proof, strictly require pleadings to be correct in form as well as substance, toss insubstantial claims out of court without endless digging around in defendants' files, and—this is clearly his favorite—employ the so-called English rule on legal fees: The loser of a lawsuit pays the winner's lawyers. This would discipline lawyers into bringing no action unless they legitimately believe it will succeed.

Olson's "steepen the steps to the courthouse" approach would limit the number of lawsuits, though some people with valid claims would not be able to overcome the obstacles and win their just deserts. A little less justice, he figures, if it also means a lot less litigation, might be a net gain.

Clearly a balance must be struck between redressing every harm in the world (or, as one judge put it, allowing a legal claim for each of "the thousand natural shocks the flesh is heir to") on the one hand, and on the other hand allowing people to live and work without any threat of being sued. But it seems misguided to say that laws—legislative and judicial—are so far out of control that we

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must bar the door to keep lawyers from taking advantage of them.

Fix the substantive law, and procedural law will no longer be a problem. Ever-burgeoning state and federal laws—such as state workers' compensation systems, federal civil rights laws, the new Americans with Disabilities Act, or any of the countless other recent laws inevitably described as "Lawyers' Full Employment Acts"—have made litigation a boom business. Not to be outdone by legislators, judges have created more reasons to sue, such as their expansion in personal-injury law, which was criticized by Olson's Manhattan Institute colleague Peter Huber in *Liability: The Legal Revolution and Its Consequences.*

Whether these largely paternalistic efforts by judges and legislators are good policy is another debate—or, more accurately, a thousand other debates. But a good legal system should stand by its government, right or wrong, and carry out public policy as efficiently as possible.

Each of these thousand debates over policy, however, must consider the costs of achieving its aims through the courts. And only nonlawyers, who bear the cost (financial and otherwise) of the litigation frenzy, can answer this. The lawyers who profit wildly from it can hardly be objective. No one will stop the expansion in laws and legal rights until nonlawyers—still, at last count, a majority in America—decide enough is enough.

Perhaps, after all, Olson's book is not just for lawyers. Legal procedure may be too important a topic to be left solely in their hands.

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Is God a Capitalist?

BY PAUL HEYNE

The Capitalist Spirit: Toward a Religious Ethic of Wealth Creation
Edited by Peter L. Berger, San Francisco: ICS Press, 192 pages, $18.95

If the title recalls Max Weber, that was apparently the editor's intention. Peter Berger believes that there has been only one important ethic of wealth creation developed in Christian history, and that Weber's interpretation of the phenomenon in *The Protestant Ethic and the Spirit of Capitalism* is essentially correct and still helpful for understanding contemporary developments.

Weber was trying to explain the events that generated an ethic of wealth creation among certain groups with theological roots in the thought of John Calvin. As the subtitle of *The Capitalist Spirit* suggests, however, the authors Berger has assembled (some of them, at least) are trying to *produce* an ethic. The question that kept nagging at me was, Why? Of what use is an ethic of wealth creation designed by intellectuals? Can a meaningful ethic, one that will actually inform and guide behavior, ever be *designed*?

The dark words that kept recurring to me as I read these efforts were *rationalization* and *ideology*. This kind of enterprise almost never generates any fruitful dialogue, for the simple reason that it is not intended to do so. It is intended to round out, shore up, and otherwise fortify positions already reached. What we sorely need in this area is something quite different: light shed upon the sources of our intense disagreements.

Robert Grant, a specialist in the New Testament era, pretty much confines himself to such description and explanation. He shows that the first-century founders of Christianity and the Apostolic Fathers of the second century had little interest in capital formation or the production of wealth, were overwhelmingly hostile to the acquisitive mindset, and were far more inclined to advocate the sharing of wealth than to concern themselves with its creation.

David Novak, a scholar in the area of Jewish law and ethics, shows how moral theologians in the Jewish tradition have generally been more attentive than their Christian counterparts to the ways in which human societies actually function. Their efforts have sometimes generated interesting compromises to preserve the intention of the religious law without interfering unduly with wealth-creating transactions among members of the community. Biblical law, for example, required the cancellation of debts during each sabbatical (seventh) year and also condemned any refusal to extend credit in anticipation of the sabbatical year. When commercial loans became more important than loans to the unfortunate, the rabbis developed a legal procedure that made it possible for loans to be repaid during the sabbatical year without literal violation of the biblical law.

George Weigel completes the explanatory portion of the book with an informative essay on the evolving relationships among Roman Catholics' social and economic experiences in the United States, American Catholic moral theology, and Roman social thought in the wake of the encyclical *Rerum Novarum*, issued in 1891. He raises the important question of whether the historic Roman Catholic hostility toward capitalism originated in a reaction to capitalism itself or in the hostility toward "modernization in general" that was so marked in the late 19th century, the era of the first social encyclicals.

Discussion of the relationship between "The Market Economy and Roman Catholic Thought" does not seem to have advanced much beyond where Daniel Villey, a French Catholic economist, left it almost 30 years ago, when he explored the issue in an article with that title. (Villey's essay is available in an English translation in Volume 9 of *International Economic Papers.*) Weigel's extensive learning, keen interest in the topic, and subtlety of mind equip him well to advance this important discussion, and his essay is a substantial contribution.

In the last third of his essay, however, Weigel, like the remaining authors, goes beyond historical description and expla-

nation to begin *constructing* a religious ethic of wealth creation. I have learned a great deal over the years from George Weigel the historian, political analyst, and cultural critic. But I have also learned to apply Occam's razor to the theological fortifications that he erects to buttress his positions. I found the first two-thirds of his contribution stimulating, insightful, and informative. But his discussion of the resources available for constructing a Roman Catholic ethic of wealth creation for the United States seemed to transform an illuminating essay into a partisan tract.

Among the contributors to this volume, Michael Novak has labored the longest and most strenuously to construct a religious, more specifically Christian, and still more specifically Roman Catholic, ethic of wealth creation. He is currently scouting for resources in the Scottish Enlightenment. David Hume, Adam Smith, and their colleagues, much like Novak today, were trying to persuade an intellectual culture deeply hostile to the pursuit of wealth that commerce generated moral as well as material benefits. That is a challenging and worthy task. But is it really helped along by all the theologizing that Novak stirs in?

On Page 64, for example, Novak begins recounting "nine distinguishable arguments" advanced by Hume, Smith, and others "in favor of the turn toward a capitalist economy." On Page 78, these become "nine moral arguments in favor of creative economies" with "a profound relationship to Jewish and Christian theology." Must all sound social arguments receive Christian baptism? When Novak criticizes the dubious theology and even more dubious economics of anticapitalist theologians, he does valuable work. When he tries to substitute capitalist theology for socialist theology, however, the arguments become vague, strained, and sometimes pretentious.

Walter Block is the most insistent ideologue in the book. His essay in defense of the libertarian religion may prove edifying for some readers of this magazine, but it will surely not persuade any religious socialists. Block lays out the libertarian creed with clarity and enthusiasm: self-ownership, private property, and the Great Commandment ("Thou shalt not steal"). He concludes with an altar call. All people of religious persuasion are really libertarians, he assures us, at least insofar as they embrace the Great Commandment, a commandment that provides for no exceptions and that contains in embryo the entire corpus of the libertarian philosophy.

Block will find no converts in the congregation to which he is ostensibly preaching because he has not addressed their principal objection to his religious creed. They will protest that he cannot establish individual property rights claims with both the clarity and the moral legitimacy that are essential to sustain his absolutist claims. But Block has a faith that can move mountains, as shown by his proposal to solve the "conundrum" of "the naked public square" by *privatizing the public square*. (That suggestion appears in endnote 30 on Page 115.)

The final essay in the volume is by the author of *The Naked Public Square*, Richard John Neuhaus, who should have pointed out to his colleague that "the public square" is the forum in which we discuss the values undergirding our common life, not a parcel of real estate. Neuhaus's essay, titled "Wealth and Whimsy," employs theological arguments about divine grace, drawn largely from St. Paul, to claim that theologians ought to take the production of wealth much less seriously.

Neuhaus objects to the "earnest moralizing of the economic sphere" that can be found in so many theological and ecclesiastical pronouncements on the economy. "Efforts to theologize economics," he astutely observes, "tend to produce dismal theology." The catch, of course, is that Neuhaus himself theologizes economics in an effort to make his case for taking economic life less seriously.

To the reader who protests that I am too hostile toward theological economics, let me confess that I used to produce it myself. And there is no one quite so intolerant toward sin as a reformed sinner. I'll get around soon to reading *Centesimus Annus*, the new social encyclical commemorating the 100th anniversary of *Rerum Novarum*, but only because I want to find out whether John Paul II has finally learned a little economics.

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Dousing the Fire

BY JOHN A. BARNES

World on Fire: Saving an Endangered Earth By George Mitchell, New York: Scribner's, 247 pages, $22.50

The dust jacket of this screaming, hysterical look at our collapsing planetary environment (or "ecosystem," which is the currently favored word) carries a photograph of a smiling, cheerful-looking Sen. George Mitchell (D-Maine). As you read this catalogue of the horrors humanity supposedly faces unless we rapidly adopt Mitchell's draconian solutions, you might ask yourself: Why is this man smiling?

After all, anyone who even browses through this book will find little to laugh

Mitchell: Why is this man smiling?

MAUREEN KEATING

about. "In 50 years, in Mexico City," Mitchell predicts, "the sun will be obliterated from the sky, and air pollution will make breath an irritating effort." (As a native New Yorker, I can certainly describe to any curious Mexican what his capital is in for.) "The day we began burning fossil fuels," he continues, "we began turning our earth into an uninhabitable hothouse."

Chlorofluorocarbons are "eating" the ozone layer and will cause skin cancer to reach epidemic levels. Even if we stop all greenhouse-gas emissions "today," the world's temperature will rise 2 to 4 degrees, melting the polar ice caps and causing all kinds of other sticky problems. Mitchell assures us this is not mere fantasy, "but is our grim future." Indeed.

But wait. There's more. In the continental United States, 9 million acres of "precious wetlands have been *ruined* by farming, urban growth and vacation developments." (Emphasis added.) I wonder if the senator has told his constituents in Maine, who live mainly by farming and by hosting vacationers from other states, that they should close up shop and disappear for the sake of the environment.

You get the idea. Anyone who has read a newspaper or watched TV news in the past couple of years has heard all of this without lightening his wallet by $22.50. And Mitchell's book is loaded with wailing about "our disappearing forests." How many trees, I wonder, gave their all for the sake of this oleaginous screed?

I don't use the word *screed* lightly, for this book is so poorly argued—if *argued* is even the appropriate term—that you could say it's hardly worth anyone's time.

But the book's author makes it important. If George Mitchell were just another publicity-hungry backbencher in Congress, then these ravings could be conveniently relegated to the remainder pile along with Howard Baker's *No Margin for Error* and Bud Shuster's *Believe in America*. Yet Mitchell is majority leader of the United States Senate, a man who can actually get a serious hearing for, if not enact, some of his proposals. He'd also like to be president.

Mitchell, whose public persona is more that of a pedantic nanny than that of a ranter, is here completely in the hands of his ghost-writer, Jack Waugh, described as an "impassioned expert" on the environment. Experts are often wrong, but when they get "impassioned," watch out.

For instance, *World on Fire* labels global warming and the greenhouse effect as one of the "Four Horsemen of the Apocalypse." (The others are deforestation, acid rain, and the hole in the ozone layer.) Now no one disputes the existence of a greenhouse effect. After all, that's how we stay alive. If the earth's atmosphere did not trap more heat than it radiated back into space, the planet would be a frozen chunk of rock like the moon.

The real question is whether the atmosphere traps too much heat. Mitchell seems to have had his revelation during the blazing summer of 1988. He duly cites NASA scientist James Hansen's Senate testimony of that year stating that global warming was no longer a threat, it was a fact, and it was increasing. Mitchell lets this argument stand, as if no one had disputed Hansen's statement in the last three years and as if the testimony were undisputed among scientists.

The acidity in Northeastern lakes was more likely caused by soil runoff than by industrial pollution, but George Mitchell isn't interested in facts.

But to this day, Hansen remains almost alone in his assertions. Even the paid-up eco-alarmist Stephen Schneider of the U.S. Center for Atmospheric Research has carefully put some distance between himself and Hansen. Among the reasons: Nine-tenths of the planet is covered by water, where it's difficult to get consistent readings; many of the temperatures are recorded in expanding urban areas, which tend to be warmer than the surrounding countryside; while 1988 was indeed a hot summer, the winter of 1987-88 was one of the coldest recorded in the Northern Hemisphere.

Nowhere does Mitchell mention that the vast majority of climatologists don't believe a dangerous global warming trend is taking place. There are even those who contend that a slight warming could lengthen the growing season and produce more food for the millions Mitchell claims are about to starve.

Mitchell's no better on acid rain. He's so eager to require businesses to spend massive amounts on new scrubbers to clean acid-forming substances out of the air that he doesn't mention the study by the National Acid Precipitation Assessment Project (NAPAP). This 10-year, $500-million project, commissioned by Congress in 1980 after the Environmental Protection Agency issued an apocalyptic report about an "aquatic silent spring" in the Northeast, showed that acid rain was no big problem. The acidity in Northeastern lakes was more likely caused by soil runoff than by industrial pollution. In fact, the study concluded that putting lime in a few lakes would probably take care of acid rain.

But George Mitchell isn't interested in facts. He devotes the entire second half of this tome to proposed "solutions." They're everything you expect. Heavy taxes on oil, gas, and coal use. New regulations on industry, and particularly on the filthy, disgusting automobile.

If Mitchell were at least honest about the implications of his plans, his book might be a little easier to swallow. But the potential costs of his proposals are only hinted at or glossed over. At one point, he admits that uncompromising pollution controls might cost a few jobs but brushes this off as a "problem" and then moves on. Elsewhere, he says the United States, because it is the filthiest nation of all, must reduce its carbon-dioxide emissions by 50 percent in 30 years. He insists that "no one is advocating extreme measures," but a 50-percent (or even a 20-percent) reduction in 30 years is extreme by any standard. If policy makers follow Mitchell's prescriptions, the days of pros-

perity in this country are surely numbered. Mitchell's proposals would shut down vast amounts of economic activity.

But quibbling with Mitchell on specifics may be beside the point. Anyone who really believed all the gloom and doom this book contains would simply write a suicide note. George Mitchell may not buy into all the hysterics published under his name. For left-liberals like him, the environmental bugaboo may provide a convenient excuse to justify vastly higher taxes and more statist policies.

Why is this man smiling? That's not hard to figure out.

John A. Barnes is an editorial writer for the Detroit News.

You Can't Go Home Again

BY FERN SCHUMER CHAPMAN

Listening to the American Family: New Hope for the Next Generation
By Richard Louv, New York: Houghton Mifflin, 420 pages, $21.95

George Eliot captured the essence of childhood in *The Mill on the Floss*: "We could never have loved the earth so well if we had had no childhood in it, if it were not the earth where the same flowers come up again every spring that we used to gather with our tiny fingers as we sat lisping to ourselves on the grass, the same hips and haws on the autumn hedgerows, the same redbreasts that we used to call 'God's birds' because they did no harm to the precious crops. What novelty is worth that sweet monotony where everything is known and loved because it is known?"

Had she written that passage today, she might have described how children lisp to themselves (often in unprintable language) between beeps from the Nintendo game as their tiny fingers grasp the controls; she wouldn't mention the hips and haws because they are not found in the sprawling urban areas where most children live. In any case, children are so divorced from nature that they wouldn't notice them, or God's birds, unless they appeared on the television screen. Monotony exists in the fast-paced, scheduled living of the 1990s, but it is not sweet; everything is known, but that familiarity has produced boredom, not love.

It is against this backdrop that Richard Louv has written his book calling for a rebuilding of community and family life. Louv, a father of two and a columnist for the *San Diego Union*, says he spent three years interviewing more than 3,000 parents, children, volunteers, teachers, and other professionals nationwide—a staggering pace for a man with his own family obligations.

Richard Louv has seen childhood's future, and it isn't pretty.

Louv identifies two themes that stood out in his research: "First, time—the sense that time is a decreasing natural resource for both children and parents; and second, the lessening of trust. Powerful, often subliminal fear burns slowly beneath the surface of American culture. One mother summed up her most intense feelings this way: 'Childhood today scares me. But I don't have time to do anything about the fear.' "

Parents, he writes, are torn between investing time in their children and earning money to offer them material goods. As one woman put it, "I want to be there for them yet I want them to have what's good, too." And since parenthood, along with childhood, has been devalued, parents often choose to offer their children "what's good," which has profound consequences. The lack of parental time manifests itself in the disappearance of family rituals, dinners together, and even after-school time together, since most parents work away from home all day.

Estimates of the number of children who care for themselves during some part of the day range as high as 7 million to 15 million. In extreme cases, children as young as 3 are being left to fend for themselves and their younger siblings. They feel neglected and abandoned, and as they get older, Louv writes, many turn "to peers, to gangs, to early sex partners, to the new electronic bubble of computers and video."

Louv is a good reporter, but his analysis is faulty and his solutions are misguided. Part of the problem is that his vision is clouded by milk-and-cookies memories of growing up in Missouri. Childhood today certainly is different from Louv's idyllic recollections of the 1950s, but that is not necessarily all bad. For example, while children may not get as much time as they'd like with their parents, both parents can now be strong role models. Children no longer have the skewed view of gender that prevailed in the '50s, reflected in "Father Knows Best" and "Leave It To Beaver."

Sometimes it's not clear whether Louv is trying to make a policy statement or simply wants to give parents self-help advice. He often slips into the latter, with tips, for example, on how to make the most of time with your children. When he does offer broader prescriptions, however, he is quick to resort to government.

Other institutions are gradually taking over childhood, Louv says, but they are not doing a very good job of it. Poor television, inadequate day care, lousy schools, and stingy public policies that restrict what libraries can offer have all contributed to what he calls "the vanishing web." He notes that the United States

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is the only advanced Western nation where family life is a private matter that government and employers have largely ignored.

Louv wants the government to ensure leave for parents after a baby is born, and he wants firms to recognize that family pressures often spill over into the workplace in the form of distracted employees and lost productivity. He suggests that companies offer more flex time and more part-time options to parents—not particularly innovative solutions.

Louv calls vaguely for "family liberation" and a "new web": "As part of a family liberation movement, parents ought to demand more freedom in choosing their own work hours and their children's school hours, thereby creating larger windows of family time. Our goal should be to help parents care for their children and to have the time to do it." The children Louv interviewed seem to want these changes, but he never really convinces the reader that parents want family liberation. Many claimed that they work too many hours and don't have enough time for their kids. But parents make choices, often preferring to pursue their own interests rather than spend time with their children.

The amount of time parents spend with their children has dropped 40 percent during the last quarter century, Louv reports. In 1965, the average parent had roughly 30 hours' contact with his or her children each week. Today the figure is down to 17. It's easy to say, "I don't have time" and dodge the real reason some parents don't spend time with their children: "I don't have the desire or the patience." Even when they have the chance, many parents don't invest time in their children; instead, they depend on television and computers to babysit, or they fill their children's schedules with organized activities away from home.

Throughout his book, Louv refers to the need for "a vast public effort, much of it by government," to support the family, but he never outlines what kind of effort he has in mind. Still, the words are ominous. The money for this "vast public effort" would come from families who are already heavily burdened by taxes. Moreover, whenever the government takes over family obligations, there's the danger that it will replace rather than assist the family, ultimately weakening it. David Popenoe, professor of sociology at Rutgers University, writes in a recent issue of *The Public Interest* that this is precisely what has happened in Sweden, "where the family has grown weaker ...than anywhere else in the world."

"What has happened to the family in Sweden over the past few decades," Popenoe writes, "lends strong support to the proposition that as the welfare state advances, the family declines. If unchecked, this decline could eventually undermine the very welfare that the state seeks to promote....The family in the welfare state may become so weak that it is unable or unwilling to provide the kind of personalized child rearing that it alone can offer." That ought to give any policy maker pause.

Louv keeps returning to his memories of growing up outside Kansas City, at the far edge of suburbia. "How much of who we are, as creative adults, was formed long ago on a slow summer day, watching the trees move?" he asks. He recalls going with his pet collie to the woods near his home, where he would "build my own world out of small mysteries: exploring near a farm hidden away next to a swamp, lost in those woods; climbing a poplar, one of the tall, straight hedge trees overlooking the corn fields, clear to the top, until the trunk was three inches thick, until it began to bend and sway in the Missouri wind."

While this sounds like the ideal American childhood, it is hardly typical, even for those raised in the '50s or '60s. Louv identifies some genuinely disturbing trends, but his understanding of them is skewed by an idiosyncratic standard. He wants America to recapture not just childhood but *his* childhood.

Fern Schumer Chapman is a freelance writer in Evanston, Illinois.

Telephone Man

BY JEROME ELLIG

After the Breakup: U.S. Telecommunications in a More Competitive Era
By Robert Crandall, Washington: Brookings Institution, 174 pages, $25.95

Ever wonder why your phone bill has 10 pages of itemized charges? Since the Bell System breakup in 1984, the economics, politics, and technology of telecommunications have all been incredibly messy. Nevertheless, Robert Crandall, senior fellow in economic studies at the Brookings Institution, has written a book that covers all three topics well.

After the Breakup explains what's regulated, what's not, and why it all matters. And those who are intimidated by—or just impatient with—the complex jargon and economics of telecommunications will be happy to know that this is a relatively user-friendly volume. Crandall displays none of the academic pomposity that sometimes arises when scholars write tomes on applied economics.

On this note, Crandall's first chapter deserves special mention. All too often, books like this begin with a "road-map" chapter—a terse string of passive-voice summaries that has all the rhetorical charm of a bad high school lab report. In contrast, Crandall's first chapter does what a first chapter should do: It sets out the context, explains why the subject is important, and develops the reader's interest.

"The telephone equipment and services sector," Crandall states, "has changed from a tranquil, regulated monopoly into a set of increasingly competitive markets in which domestic and foreign suppliers compete for the patronage of household and business users." He then gets right on with telling the story of how this change occurred and what it means. I kept reading, not just because

this magazine paid me to write a book review, but because I wanted to find out how the story would end.

Of course, the regulation story is far from over. "Many people believe that telephone services have been deregulated, but in fact precious little deregulation has taken place," notes Crandall. "Local rates remain regulated. State commissions still regulate intrastate toll rates. The FCC regulates dominant carriers, such as AT&T." And "the divested Bell operating companies are the most constrained of all the players," prohibited from manufacturing telecommunications equipment, offering long-distance service, or providing information services.

Deregulation has largely occurred in the long-distance and equipment markets. In 1971, the Federal Communications Commission permitted competitors to challenge AT&T in the long-distance telephone market. Then in 1984, the AT&T breakup threw open a competitive market in telecommunications equipment, with anyone free to manufacture except the local Bell telephone companies.

These policy changes have been controversial. Opponents predicted that fragmenting the Bell System would raise costs, degrade quality, and jeopardize universal phone service. Supporters favored the consumer benefits of competition over the efficiencies of integration.

Six years after the AT&T breakup and 19 years after competition came to long-distance service, there is an ample historical record to put these theories to the test. Crandall's statistical research reveals that telecommunications productivity has accelerated, prices more accurately reflect costs, and there is no evidence that quality has deteriorated. He also finds a negligible effect on universal service, estimating that the number of low-income families with phone service is at most 2 percent or 3 percent lower than it otherwise would have been.

Unfortunately, many in the policy arena will probably interpret these results as an endorsement of the status quo, which features 50 state regulatory fiefdoms, a maze of FCC regulation, and a national telecommunications czar named Harold Greene, whose court administers the Bell breakup agreement.

If Crandall's findings get used to justify this mess, it won't be his fault. His concluding chapter points out that even though we're better off than before, there's plenty of room for improvement: "As the telephone network fragments further, regulators will be forced to abandon the distorted rates that seem partially responsible for this fragmentation. Then it will become possible to get a market test of the magnitude of scale-scope economies versus the benefits of competition." It's refreshing to find someone in Washington humble enough to admit that he doesn't know the most efficient structure for the industry.

This volume will no doubt be heavily discussed in the ongoing congressional debate over allowing the Baby Bells to manufacture equipment, produce information services, and offer long-distance service. Opponents argue that the Bells can cross-subsidize these services with revenues from regulated local phone service. For example, a Bell company might install new high-tech equipment to provide information services but convince regulators that they need the equipment to provide ordinary local phone service. Households would then get charged for equipment they aren't using when they pay for basic phone service. Meanwhile, in the market for information services, the Bells would have a cost advantage over competitors who lack a base of captive customers to squeeze.

Proponents of freeing the Bells argue that the FCC can control cross-subsidization; therefore, it makes little sense to keep certain markets off-limits to companies controlling 60 percent of the nation's telecommunications assets.

If this book has a (slight) weakness, it's that the discussion of cross-subsidization assumes that the reader is already familiar with the issue. This poses a problem, because it isn't clear that many policy makers really understand what cross-subsidization is, or why the Bell companies might have a reason to engage in it. Such ignorance can have dire policy consequences, because if one doesn't understand why the Bells might cross-subsidize, it's also hard to discern circumstances under which they would not cross-subsidize. Without such knowledge, one can never figure out how and when it might be appropriate to free the Bells.

Judge Greene's references to cross-subsidization in his court opinions, for example, often seem to say no more than "big companies can do whatever they want." Opponents of allowing the Bells to compete have picked up on this theme, seemingly unaware that the fundamental reason for cross-subsidization lies in the structure of regulation itself.

Local telephone companies are, by and large, subject to rate-of-return regulation by state regulatory commissions. Under some conditions, they may have an incentive to increase profits by increasing capital expenses; the more capital they use, the more profits regulators let them earn. And what better way to increase capital expenses than to enter new, competitive markets using facilities and equipment that they claim are being used in old, regulated markets?

Crandall points out that regulatory reform or further deregulation can take away the Bells' incentive to cross-subsidize. Eliminating rate-of-return regulation, he says, is the policy option "most attractive to traditional economists familiar with the literature on the distortions caused by rate-of-return regulation." I agree, but his observation would be more convincing if he devoted more space to explaining the economics of cross-subsidization.

Nevertheless, *After the Breakup* is one of the most lucid books I've read in a field awash in abstruse economese, legal lingo, bureau-babble, and techno-speak. Readers familiar with telecommunications will appreciate Crandall's new findings, and readers unfamiliar with telecommunications will better understand their phone bills.

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P.C. LEFT, P.C. RIGHT

BY THOMAS W. HAZLETT

A veritable Inquisition now reigns on the American college campus. The criminal proceedings begin with the accusation ("You called her a girl, you pig!"), and the Ministry of Information swings into action. This is often an official board, controlled by a lynch mob armed with bull horns. The defendant is not Mirandized, and the presumption is guilt by reason of insanity.

In a flash, a People's Tribunal is convened; no mucking about with due-process technicalities here. The charges are read aloud, and it's straight to the verdict: Guilty! Sexist! Racist! Homophobic Vermin! Then the inevitable sentence to a re-education seminar. There, the social deviant will confess to his sins. (Oops! I left out *her* sins! Guilty!) Self-criticism is the cleanser, public humiliation the rinse.

These kangaroo courts have caught the attention of our social-crime beat reporters. The major news organizations are onto the more bizarre aspects of the anti-intellectualism now available in sound-bite format, and they have shocked millions of unindicted American co-conspirators with actual trial testimony.

What is troubling me about the reaction to the McCarthyism of the left is...the McCarthyism of the right. While the P.C. craze has infected the campus with style-conscious zombies who believe that thinking is a boring substitute for the latest in ecologically chic buttonwear, right-wingers have slipped into the campus masquerade as phony civil libertarians. The clothes don't fit, and they're tripping all over those shoes.

Alas, there is no constituency for *truth*. I hate to bring it up, but the T-word was kind of the idea behind the university to begin with. While the corporation is a slave to profit, the government to politics, television to ratings, and the church to dogma, the scholar was set up in business to pursue unbridled factology. OK, it sounds a little goofy. But that *was* the plan: the university as an academic oasis where neither the constraints of practicality, nor of popularity, nor of orthodoxy would prevail, thus allowing scope for intelligent reflection, calculated experiment, and rigorous debate. From this richly fertilized soil, useful discoveries might blossom.

But to the right, "free speech" becomes "communist agitation" the instant conservatives snag 50.1 percent of the Inquisition Board slots. The only time you'll see Jesse Helms in the same zip code with the Bill of Rights is at an NRA rally. Accuracy in Media's Reed Irvine, outraged over liberal media bias, prays for the Fairness Doctrine (abolished in 1987) to be born again, ready to vanquish those pinkos at CBS. Only minutes after George Bush railed against P.C.-ness at the University of Michigan, he was rushed to the hospital with an irregular heartbeat; could his sudden twist from a constitutional amendment to ban flag burning have induced the vapors?

The reflexes of the right are all against free inquiry, and the campus P.C. debate produced exactly the knee jerk the doctor expected. In authoring the Collegiate Speech Protection Act of 1991, Rep. Henry Hyde (R-Ill.) seeks to ban speech codes at private colleges. Hyde is to conservative activists what Paula Abdul is to teenage boys with a glandular imbalance. But the idea of regulating universities that regulate speech—on the grounds that private schools cannot be trusted to regulate themselves—flips the Constitution on its head and spins it 180 degrees. Schools are supposed to set standards, not the federal government; how many billion decibels would these right-wingers scream (without the ACLU, which endorses Hyde's bill) if the federal government swooped in to strip private *high schools* of their ability to regulate language, dress, and behavior?

The problem is not that schools are setting standards, but that they are setting such ridiculous ones. UCLA should be more open and tolerant than, say, the Glendale Galleria or LAX. "Offensive speech," contraband on some 200-plus colleges with codes, should be carefully steered right into the arena of Higher Learning, center court. That is exactly where it should compete, and where its audience should assemble. As the famous Marxian historian Eugene Genovese recently wrote: "Any professor who, subject to the restraints of common sense and common decency, does not seize every opportunity to offend the sensibilities of his students is insulting and cheating them, and is no college professor at all."

The campus as truth-seeking oasis is not the vision of right-wing ideologues. Their intellectual mothers rooted hard for Senator Joe, and their kissin' cousins yet spy on leftish professors, pressing their classroom evidence of subversion not for honest challenge but for political expulsion. Free speech is today their agenda, but it is not their cause.

Such disingenuousness is dry timber for the P.C. fires, as the battle is reduced to a raw power struggle trampling the scholarly canon. It is hence fortuitous that liberals are increasingly selected as defendants in P.C. prosecutions. While the attack seems motivated by practical considerations (limiting the hunt to right-wingers leaves loads of excess capacity in the P.C. holding cells), it has forced the issue. Now the university's liberals have both opportunity and motive...to be liberal. They should heed Genovese's call "for honorable men and women [to] defeat terrorism by unleashing counter-terrorism against cowardly administrators and their complicit faculty."

It would be nice if they hurried. It is not quite yet midnight at the oasis.

Contributing Editor Thomas W. Hazlett teaches economics at the University of California, Davis.

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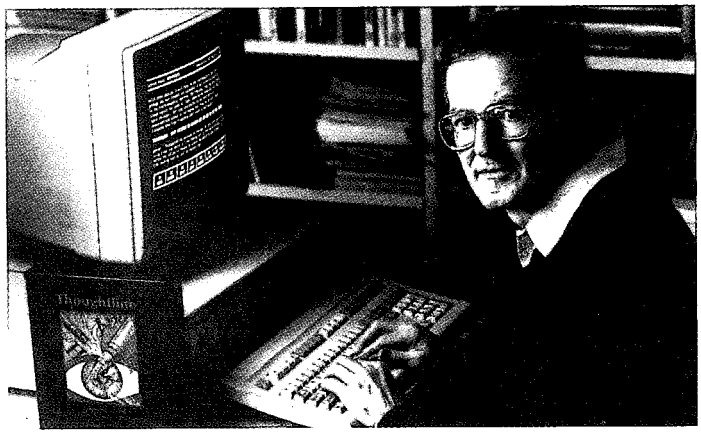

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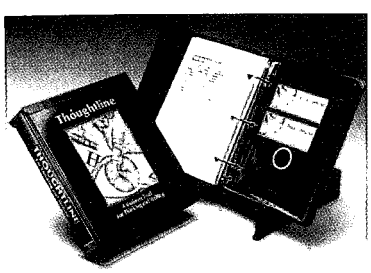

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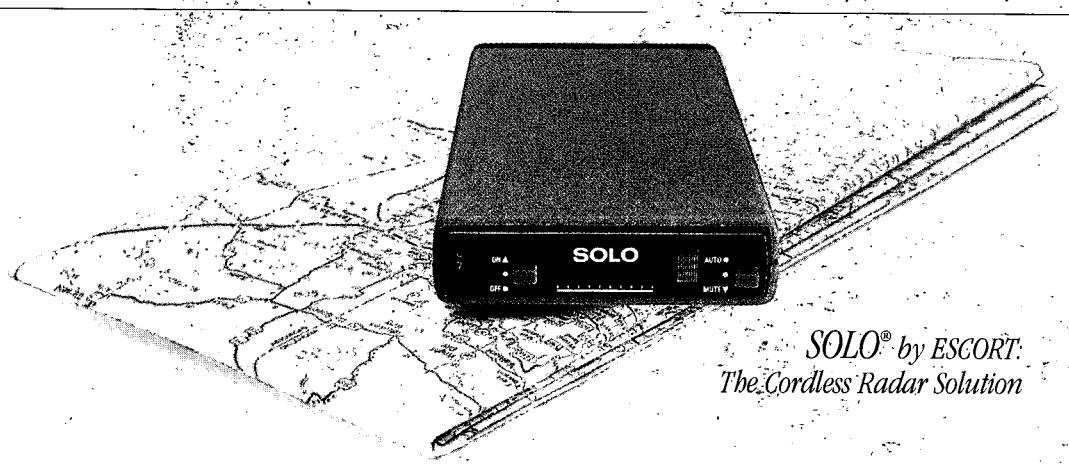

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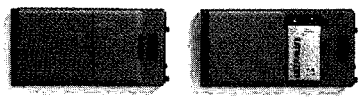

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